

North Carolina Sheriffs' Association

Serving the Sheriffs and Citizens of North Carolina since 1922

Weekly Legislative Report



March 06, 2009

Activity at the General Assembly continues to increase week by week. Most committees are now meeting regularly although generally their agenda is not very heavy. Some committees are hearing presentations from representatives of state agencies about various programs. Committees that are considering actual legislative bills generally don't have a lengthy agenda, but bills are beginning to move.

So far this year four resolutions have been approved by the General Assembly. They are to: (1) invite Governor Beverly Perdue to give her State of the State address next Monday; (2) recognize the NAACP's 100th Anniversary; (3) honor Fuquay-Varina's Centennial; and (4) honor Sonny Boy Joyner and recognize the town of Weldon as the Rockfish Capital of the World. These resolutions became effective when approved by the House and Senate and do not require the Governor's signature.

Two bills have been enacted into law, and signed by Governor Beverly Perdue, thus far: (1) a technical bill concerning vacancies on the Dare County and Watauga County Board of Commissioners; and (2) a bill to enable Governor Perdue's choice as Chairman of the State Board of Education to be appointed.

The House Mental Health Reform Committee met this week to begin the complicated, difficult and long process of evaluating changes that are needed to reform the mental health system in North Carolina. The committee co-chair, Representative William Brisson, presided over the meeting. Representative Brisson made it clear that legislators who want to truly understand the crisis in the mental health delivery system in North Carolina should begin their inquiry by visiting with their local Sheriff to discuss the impact that Sheriffs and their personnel are experiencing. Representative Brisson said that after visiting with their Sheriffs, legislators should then visit the emergency department at their local hospital to further understand where citizens with mental health needs often unfortunately find themselves. Mental health reform is an important issue and we will be working closely with this committee during this session to address this issue.

The House and Senate adjourned on Thursday to reconvene on Monday evening.

BILLS OF INTEREST

HOUSE BILL 362, Access to Higher Education, would prevent the University of North Carolina System and the Community College System from adopting any requirement for admission that relates to a person's immigration status. **Introduced by Representatives Harrison, Luebke, Glazier and Insko.**

HOUSE BILL 376, Adequately Fund Seventh Hazmat Team, is identical to Senate Bill 267 and would fund a seventh state hazardous materials team, and thereby increase the total number of those teams from 6 to 7. **Introduced by Representatives Martin and Wainwright.**

HOUSE BILL 379, Allows Mutual Aid Between State & Local Government, is identical to Senate Bill 254 and would allow the Governor to establish mutual aid agreements with local governments, upon the agreement of the local government's governing body, concerning emergency management. **Introduced by Representatives Martin and Wainwright.**

HOUSE BILL 380, Strengthen Local Emergency Management, is identical to Senate Bill 252 and would allow counties and cities to form joint emergency management agencies. **Introduced by Representatives Martin and Wainwright.**

HOUSE BILL 381, Expand Division of Emergency Management Authority, is identical to Senate Bill 257, and would expand the powers of the Division of Emergency Management by giving that Division authority for administration of federal and state grant funds provided for emergency management purposes and specify that this division is the lead state agency for hazard risk management. **Introduced by Representatives Martin and Wainwright.**

HOUSE BILL 382, Authorize Voluntary Medical Registry Program, would authorize the Division of Emergency Management to establish a voluntary registry for use by counties and cities in identifying persons in need of assistance during a disaster. **Introduced by Representatives Martin, Wainwright and Farmer-Butterfield.**

HOUSE BILL 388, Campaign Disclosure, would change the campaign finance law and remove the provision that currently allows campaigns with \$3,000 or less in contributions and expenditures to not file a campaign report. **Introduced by Representatives Earle, Parmon, Lucas and Carney.**

HOUSE BILL 402, No Elected Official Recommendation/Certain Counties/Notaries, is identical to Senate Bill 268 and would eliminate the requirement that an elected official make a recommendation for a person to be appointed as a notary public. This bill would only apply to a county with more than 14,000 notary publics. **Introduced by Representative Alexander.**

HOUSE BILL 405, Western Justice Academy Firing Range, would require that the new firing range to be constructed at the North Carolina Justice Academy's western campus must be an indoor facility. However, this bill does not provide the additional funding necessary to go with the funding

provided last year in order to convert the plan from an outdoor firing range to an indoor firing range. **Introduced by Representative Justus.**

HOUSE BILL 406, Western Justice Academy/Wildlife Resources Firing Range, would require the Department of Justice and the Wildlife Resources Commission to jointly develop a plan for the construction of a firing range on land owned by the Wildlife Resources Commission, using the funding provided last year to the North Carolina Justice Academy's western campus. **Introduced by Representative Justus.**

HOUSE BILL 413, Limit Legislators to Four Consecutive Terms, would allow citizens of North Carolina to vote on a potential constitutional amendment that would limit members of the General Assembly to four consecutive terms in the House. **Introduced by Representative Rhyne.**

HOUSE BILL 414, Judicial Appointment/Voter Retention, would allow the citizens of North Carolina to vote on a constitutional amendment to provide that the Governor can fill the vacancy when a vacancy occurs on the North Carolina Court of Appeals or the Supreme Court of North Carolina and then requires the new appointee to stand for a "retention election. **Introduced by Representative Rhyne.**

HOUSE BILL 416, Clarify Local Government Evacuation Authority, would clarify that counties and cities have the authority to order an evacuation during a state of emergency. **Introduced by Representatives Martin and Wainwright.**

HOUSE BILL 417, Drivers License Changes/Young Drivers, would make various changes in the law that allows persons between 16 and 18 years of age to apply for and be issued a driver's license. **Introduced by Representatives Killian, Daughtry, Cole and Sutton.**

HOUSE BILL 418, Drivers License Changes/Older Drivers, would require a person who is 85 years of age or older to take a road test when renewing their driver's license, and would make various other changes for drivers older than 65 years of age at the time their driver's license is renewed. **Introduced by Representatives Killian, Daughtry, Cole and Sutton.**

HOUSE BILL 421, Use of Deadly Force/SBI Investigations, would require the District Attorney to release investigation results to the internal affairs unit of the local law enforcement agency as well as the deceased next of kin and the news media when law enforcement officers use deadly force. **Introduced by Representative Alexander.**

HOUSE BILL 424, Certified Technicians for Animal Euthanasia, would authorize the Department of Health and Human Services to certify persons to order, possess and administer drugs for animal euthanasia. **Introduced by Representatives Allred and Pierce.**

HOUSE BILL 429, Retirement System COLAs, would provide a 1% cost of living increase to retirees of the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, and the Consolidated Judicial Retirement System. **Introduced by Representative Tucker.**

HOUSE BILL 430, Voter Identification, would require that voters provide identification before voting. **Introduced by Representatives Moore, Current, Stam and Killian.**

HOUSE BILL 435, Lee County Vacancies, would require that when there is a vacancy on the Lee County Board of Commissioners or a vacancy in the Lee County Office of Sheriff, the person recommended by the Executive Committee of the political party of the vacating member must be appointed. **Introduced by Representative Love.**

HOUSE BILL 440, The Nicolas Adkins School Bus Safety Act, would provide for the use of automated camera or video recording systems on state owned stopped school buses. **Introduced by Representatives Folwell, Cole, Mills and Love.**

HOUSE BILL 463, Amend Antique Firearm Definition, would make various changes in the definition of an "antique firearm." **Introduced by Representative Goforth.**

HOUSE BILL 471, Selling Motor Vehicle Registrations Unlawful, would make the sale of a temporary motor vehicle registration plate to a person who was not authorized to purchase the plate unlawful. **Introduced by Representatives Cotham, Mackey, Lewis and Tillis.**

HOUSE BILL 472, North Carolina Racial Justice Act, would make various changes in the procedure for imposing the death penalty in a capital criminal case. **Introduced by Representatives Womble, Parmon, Luebke and Harrison.**

HOUSE BILL 473, Magistrate Can Carry Gun in Courthouse, would provide that a magistrate who has a concealed handgun permit can carry or possess a concealed handgun while in a courthouse to discharge official duties. **Introduced by Representatives Hurley, Justus, Spear and Sutton.**

HOUSE BILL 495, Divide Prosecutorial District 11, would divide current Prosecutorial District 11 into District 11A (Harnett and Lee Counties) and District 11B (Johnston County). **Introduced by Representatives Love and Daughtry.**

HOUSE BILL 496, TROSA Substance Abuse Funds, is designed to reduce prison costs by appropriating \$330,000 to provide comprehensive residential treatment and vocational training for probationers with controlled substance abuse problems. **Introduced by Representatives Luebke, Hall and Wilkins.**

HOUSE BILL 500, Regulation of Nonconsensual Towing/Asheville, would allow the city of Asheville to establish regulations for the towing of motor vehicles from private lots, garages or other parking facilities. **Introduced by Representatives Goforth, Whilden and Fisher.**

HOUSE BILL 506, Clarify Entitlement to Counsel/Appointment, would clarify the procedures for appointment of an attorney when a person is accused of a criminal offense. **Introduced by Representatives Goodwin, Ross and Jackson.**

SENATE BILL 360, Repeal Statesville Police Act, provides that the police officers of the City of Statesville and the City of Mooresville will have extra-territorial jurisdiction within one mile of the

corporate limits of their city, pursuant to G.S. §160A-286, and would no longer have countywide jurisdiction throughout Iredell County. **Introduced by Senator Hartsell.**

SENATE BILL 362, Retired Teachers Return to Work, is identical to House Bill 229 and would reduce the waiting period from six months to four months for retired teachers to return to work without a loss in their retirement benefits. **Introduced by Senator Swindell.**

SENATE BILL 364, Apex Wheel Locks, would add the Town of Apex to those local governments that may enact an ordinance allowing for the use of wheel locks on illegally parked vehicles in certain circumstances. **Introduced by Senator Stevens.**

SENATE BILL 368, Various Changes in Motor Vehicle Law, would make numerous changes to the motor vehicle laws including an exemption from the seatbelt law for garbage and recycling truck operators while on collection routes and a prohibition for computer or video screens to be in a vehicle at any point forward of the driver except for law enforcement or emergency officials and for navigation systems (currently, applies only to televisions).

There are many proposed changes relating to commercial motor vehicle laws, including a requirement for any vehicle that has a gross vehicle weight rating (GVWR) of more than 10,000 pounds and which is used in intrastate commerce, and is not a farm vehicle, must have the name of the owner printed on the side of the vehicle in letters not less than three inches in height (deletes exemption for vehicles weighing 26,001 pounds or more), would increase the size of the flag required to be displayed at the end of an oversized load to 18 inches (currently, 12 inches) in length and width and by specifying that the light displayed at the end of the load must be amber (currently red or amber), would require all motor vehicles with a GVWR of 10,001 pounds or more that are engaged in commerce, being used to tow a load or that have a load that protrudes from the rear or sides of the vehicle must comply with Federal Motor Carrier safety regulations, would eliminate the exception from the safe tire tread depth requirement for trucks with dual wheels owned by farmers and operated exclusively in the carrying and transporting of products and during daylight hours.

If enacted the bill would require that any motor vehicle with a GVWR of 10,001 pounds or more and that is operated on a street must be equipped with safe tires, clarifies trucks and truck-tractors having three or more axles would not be required to have brakes on front wheels if it was manufactured prior to July 25, 1980, would delete the exemption for semitrailers used by a farmer, farmer's tenant, agent, or employee and adds an exemption if the trailer was not equipped with brakes from the manufacturer and is not required to be registered.

The bill would establish a procedure that requires an appeal of a civil penalty imposed by the Motor Carrier Section of the State Highway Patrol (SHP) to go to the Secretary of Crime Control and Public Safety (CC&PS) first before the person is allowed to sue in superior court for a refund of the penalty, would allow motor carrier officers of SHP to levy civil fines of up to \$25,000 for owners of vehicles that require a special permit and commit any of the following violations: (1) operating without the issuance of the required permit, (2) operating off permitted route of travel, (3) operating without the proper number of certified escorts as determined by the actual loaded weight or size of the vehicle combination, (4) failure to comply with the travel restrictions of the permit, and (5) operating without the proper vehicle registration or license for the class of the vehicle being operated

and would also allow a civil penalty of up to \$25,000 for a vehicle with an excessive weight special permit when the axle-group weight exceeds the limit set in G.S. 20-118(b)(3).

The bill clarifies that a vehicle could not be used at all if found by the SHP Motor Carrier Section to have a mechanical condition or loading that would be likely to cause a crash or breakdown (currently, if found unsafe for use). The bill provides that if a motor carrier safety officer of SHP finds such a vehicle in actual use on the highways, it must declare it "out-of-service" and the owner is prohibited from requiring or permitting any person to operate any "out-of-service" motor vehicle equipment until all repairs required by the notice have been completed (currently, the vehicle is guided to the nearest point of substitution or correction of the defect).

The bill would impose identification requirements for retired members and surviving spouses of retired SHP members applying for a Retired State Highway Patrol specialty tag and increases from 21% to 23% the ratio of supervisors to subordinates authorized for the SHP. **Introduced by Senator Jenkins.**

SENATE BILL 371, Honor Richard John Matthews, would honor the life and memory of Richard John Matthews, former officer of the Wilmington Police Department, who was killed in the line of duty while responding to a call for help from another officer on February 18, 2009. **Introduced by Senator Boseman.**

SENATE BILL 372, Clarification of Nuisance Abatement Laws, would clarify the types of nuisances involving obscene or lewd matter or conduct that would be prohibited. **Introduced by Senator Boseman.**

SENATE BILL 380, Collection of Mobile Phone Data/DMV Reports, would require that motor vehicle crash reports be amended to also require a notation of any use of mobile phones or any additional technology. **Introduced by Senator Dannelly.**

SENATE BILL 381, Establish Domestic Violence Fatality Review Team/Mecklenburg County, would establish a Domestic Violence Fatality Prevention and Protection Review Team in Mecklenburg County to identify and review domestic violence related deaths and to facilitate communication between various agencies and organizations involving domestic violence cases in Charlotte and Mecklenburg County. **Introduced by Senator Dannelly.**

SENATE BILL 398, Security and Immigration Compliance, is an extensive bill that would establish the North Carolina Security and Immigration Compliance Act and would place numerous restrictions on persons in this State who are not lawfully present in the United States. **Introduced by Senator Clary.**

SENATE BILL 399, Western Justice Academy Firing Range, is identical to House Bill 405 discussed above. **Introduced by Senator Apodaca.**

SENATE BILL 401, Western Justice Academy/Wildlife Resources Firing Range, is identical to House Bill 406 described above. **Introduced by Senator Apodaca.**

SENATE BILL 403, Victims Compensation Amendment, would amend the Crime Victims Compensation Act to provide that “criminally injurious” conduct also includes both felony and misdemeanor death by vehicle and includes the cost of grief counseling for the spouse and children of a deceased victim. **Introduced by Senator Doug Berger.**

SENATE BILL 411, Amend Survivor's Alternate Benefit, would amend the survivor’s alternate benefit for members of the Teachers’ and State Employees’ Retirement System and Local Governmental Employees’ Retirement System to provide a benefit for survivors of law enforcement officers killed in the line of duty under certain specified conditions. **Introduced by Senator Brunstetter.**

SENATE BILL 423, Waive CDL Test Requirement for Military Personnel, is identical to House Bill 271 and would allow the Division of Motor Vehicles (DMV) to waive the commercial motor vehicles skills test if the applicant meets the other qualifications to be issued the license, and has operated a vehicle of the same class in the military within the last two years. **Introduced by Senator Brown.**

SENATE BILL 427, Restore Contract Rights to State/Local, would repeal the prohibition against collective bargaining and also would set up a process for collective bargaining between the state and public employee unions. **This bill is opposed by the North Carolina Sheriffs’ Association.** **Introduced by Senator Kinnaird.**

SENATE BILL 431, Amend Armed Robbery/Apparent Firearm, would make it a Class D felony to commit a robbery with an “apparent” firearm. **Introduced by Senator Rucho.**

SENATE BILL 449, Repeat Offender/False Pretenses, would increase the penalty for obtaining property by false pretenses for property of certain values and would provide for imposition of an enhanced penalty for committing a second or subsequent offense of obtaining property by false pretenses. **Introduced by Senator Hoyle.**

SENATE BILL 458, Require High School Diploma/GED/Bail Bondsman, would require an applicant for licensure as a bail bondsman or runner to have obtained a high school diploma or its equivalent. **Introduced by Senator Swindell.**

SENATE BILL 461, North Carolina Racial Justice Act, is identical to House Bill 472 discussed above. **Introduced by Senator McKissick.**

SENATE BILL 464, Prevent Racial Profiling, would amend the law requiring the collection of traffic law enforcement statistics to require the law enforcement officer to: if an arrest was made, indicate whether or not there were any minor children in the vehicle at the time of the arrest, and whether they were left in the custody of a responsible adult; make changes in the records required to be maintained concerning DWI and other checkpoints; and make various other changes. **Introduced by Senator McKissick.**

SENATE BILL 467, Disposal of Unclaimed Animals, would expand the application of the law concerning the holding and disposal of unclaimed animals. **Introduced by Senator McKissick.**

SENATE BILL 468, Authorize Insurance for Former Employees, would authorize counties to continue providing health insurance benefits to former employees. **Introduced by Senator McKissick.**

SENATE BILL 469, Jeanne Hopkins Lucas Act, would allow law enforcement officers with the city of Durham or Durham County who have ten years of service to purchase up to two years of creditable retirement service if they have an Intermediate Law Enforcement Certificate or to purchase up to four years of creditable retirement service if they have an Advanced Law Enforcement Certificate. **Introduced by Senator McKissick.**

BILL STATUS

HOUSE BILL 8, Prohibit Cell Phones in Prison, was amended in committee to change the penalty from a Class I felony to a Class A1 misdemeanor.

HOUSE BILL 108, Suspension and Revocation of Fishing Licenses, was amended in committee to make various changes to the fishing laws administered by the Marine Fisheries Commission.

HOUSE BILL 201, Add Division of LESS to CCPS, was heard in the House Judiciary III committee on Tuesday. The bill received a favorable report from the Committee and has been referred to the House Finance Committee. **This bill is supported by the North Carolina Sheriffs' Association.**

If you would like a copy of any of the legislation introduced or considered by this year's General Assembly, copies are available on the General Assembly's World Wide Web site: 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).

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