



SENATE BILL 582: Agency Technical Corrections.

2017-2018 General Assembly

Committee:

Introduced by: Sen. Barringer

Analysis of: Third Edition

Date:

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Prepared by:

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OVERVIEW: *Senate Bill 582 as amended in committee and on the Floor of the House would make technical changes requested by State agencies, and various other changes to State law.*

[As introduced, this bill was identical to H229, as introduced by Rep. Davis. H229 was concurred by the House June 27, 2017. This bill does not include or amend the provisions passed in H229.]

BILL ANALYSIS:

Section 1 would repeal two provisions that have been found to be unconstitutional because they allow a criminal sentence to be modified based on findings by a judge. The U.S. Supreme Court has held that, other than prior record, factors affecting sentencing must be found by a jury.

Section 1.5 would make a conforming change to the applicability of premises restrictions for registered sex offenders. Current law applies to offenders who have victimized a minor. This correction would include an offender who believed the victim that was solicited online, was a minor.

Section 2 would allow the Department of Health and Human Services to comply with federal Food and Drug Administration testing on minors with parental consent.

Section 2.5.(a) and (b) would expand the venues where alcohol can be served to include sports and entertainment venues.

Section 3 would allow a member of the State Lottery Commission with a law enforcement background to be an elected law enforcement official.

Section 4 would amend the living probate statutes enacted last year by changing "domicile" to "residence" in order to conform to venue requirements for trusts and other civil matters.

Section 5.(a) and (b) would amend G.S. 39-35 to remove certain references to "limitation" of a power of appointment that are no longer needed. This section would allow the Revisor of Statutes to print explanatory comments if House Bill 229 becomes law.

Section 6.(a) and (b) would amend the law regarding a creditor's claim against a certain trust whose assets are protected against creditors by allowing stepchildren to be beneficiaries as well as children. This section would allow the Revisor of Statutes to print explanatory comments.

Sections 7 would correct a statutory reference within the statute regarding early termination of a vacation rental agreement for any member of the Armed Forces.

Section 8 would prohibit an attorney serving as a trustee or substitute trustee in a non-judicial, or power-of-sale, foreclosure proceeding from also representing a note holder or a borrower as a result of a neutrality standard set by the North Carolina Bar.

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Section 9. Reserved.

Section 10.(a) through (c) would make clarifying changes to the North Carolina Captive Insurance Act by changing the term "investigation" to the term "audit" and the term "survey" to "review" and would specify the process and timeframe in which any change in executive officers or directors of a captive insurance company is deemed approved by the Commissioner.

Section 11.(a) would amend and expand the definition of "personal property" when used in reference to credit property insurance.

Section 11.(b) would allow the Commissioner to prescribe a loss ratio standard for credit unemployment insurance every three years rather than every year in North Carolina Credit Insurance law.

Section 12.(a) would amend the statute pertaining to the sale of merchandise or services by governmental units to exempt the operation of food and vending services under Article 3 of Chapter 111 of the General Statutes from the prohibition of governmental entities operating restaurants, cafeterias, or other eating places in State buildings. The exemption created in this section broadens an existing exemption for the Department of Health and Human Services in the statute.

Section 12.(b) would amend Article 3 of Chapter 111, which governs the operations of vending facilities on State property, to add a new section that would allow the Department of Health and Human Services (DHHS) to operate or contract for the operation of food services at state properties or facilities that are allocated to the Department of Administration or the Department of Insurance. The net proceeds of these operations would go to the Division of Services for the Blind to be used to support programs that enable blind and visually impaired people to live more independently. This new section creates an exemption to the requirement that State agencies, upon the request of DHHS, give preference to blind persons for food services operations on State property. This exemption is similar to the exemption that already exists in statute for the Department of Natural and Cultural Resources and the Department of the State Treasurer.

Section 12.(c) would amend the statute pertaining to the State's lease or sale of real property for less than fair market value to specify that the statute does not apply to leases entered into by the Department of Health and Human Services for the operation of food and vending service under Article 3 of Chapter 111 of the General Statutes.

Section 13.(a) through (c) would amend Schedule IV of controlled substances by adding as a "Narcotic Drug": 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers (including tramadol).

Section 14 would grant the State Opioid Treatment Authority access to the data in the controlled substances reporting system.

Section 14.5.(a) would remove the North Carolina Criminal Justice Education and Training Standards Commission, and the Sheriff's Education Training Standards Commission from "occupational licensing boards" as defined in House Bill 701 currently in Senate Rules, if that bill became law.

Section 14.5.(b) would provide that the North Carolina Criminal Justice Education and Training Standards Commission and the Sheriffs' Education and Training Standards Commission are subject to Article 3A of Chapter 150B (the Administrative Procedure Act) rather than Article 3 in the conduct of administrative hearings.

Section 15.(a) would eliminates an annual report from the Department of Public Instruction to the Joint Legislative Education Oversight Committee on school plant operations management.

Section 15.(b) would move the required report date on the status of agency capital projects from October 1 to October 15 of each year, and from the 1st to the 15th of any other month a report is due.

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Section 16 would eliminate a requirement that notice of appointment to public office be filed with the State Library.

Section 17.(a) and (b) would recodify G.S. 143-320(3) as G.S. 143B-135.44(3a) and G.S. 143-323(a) as G.S. 143B-153.58(a). This recodification would transfer the duties concerning "recreation" from the Department of Environmental Quality (DEQ) to the Department of Natural and Cultural Resources (DNCR). Section 57.(b) would also recodify G.S. 143-323(d) as G.S. 143B-153.58(b). This recodification would transfer authority from DEQ to DNCR to apply for, and accept, recreation-related funding from the federal government.

Section 17.(c) would designate the Director of the Division of Parks and Recreation the authority to accept and administer funding through the federal Land and Water Conservation Fund or its successor.

Section 17.(d) would make a conforming change by including specific sworn law enforcement officers that had previously been covered, in the eligibility list for salary continuation benefits.

Section 18 would eliminate the two consecutive term limit for the member of the Vocational Rehabilitation Council representing a parent training and information center.

Section 19 would adjust the membership of the Public Librarian Certification Commission to eliminate the chairman of the NC Association of Library Trustees, and would substitute an individual named by the Governor upon nomination by the NC Library Association.

Section 20.(a) would change the title of Part 39 of Article 2 of Chapter 143B to "North Carolina Zoological Park".

Section 20.(b) would allow the Secretary of the Department of Natural and Cultural Resources to adopt rules governing the operation of the Zoological Park. This section would also require any sale, lease or trade by the Secretary to acquire, dispose of, or develop park property to be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums.

Section 21 would transfer the administration of the Clean Water Management Trust Fund from the Department of Environmental Quality to the Department of Natural and Cultural Resources.

Section 21.4(a) would define "representative payee" in the article regarding the Achieving a Better Life Experience Act (ABLE).

Section 21.4(b) would allow representative payees to establish, and contribute to an ABLE account.

Section 21.5(a) would prohibit an employer from withholding any portion of an employee's wages for the purpose of paying specific membership fees and dues.

Section 21.5(b) and (c) would make unlawful any provision that conditions the terms of an agreement not to sue or to settle litigation upon an agricultural producer's status as a union or nonunion employer or entry into or refusal to enter into an agreement with a labor union or labor organization.

Section 22.(a) and (b) would amend local governments' authority relating to subdivision ordinances by providing that local governments shall require only a plat for recordation for a subdivision that meets certain requirements, including the requirement that each resultant lot either fronts an existing public right-of-way or may be accessed by a recorded permanent means of ingress and egress, and such is indicated on the plat.

Section 22.(c) and (d) would postpone an effective date for a bill passed this session by one month in order to avoid an unintended retroactive application of the law.

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Section 23.(a) and (b) would amend a statute that currently requires counties to deposit cash when it reaches \$250 or at the end of each month, to eliminate the required monthly deposit and allow the cash to be locked in a secure location until it reaches \$250, at which point a deposit would be required with a properly licensed and recognized cash collection service.

Section 24 would correct the effective date of S.L. 2016-81 (NC Money Transmitters Act).

Section 25 would postpone the Department of Environmental Quality's report to the Environmental Review Commission on solid waste management activities and landfill capacity from May 1, 2017 to March 1, 2018.

Section 26 – Except as otherwise provided in this act, this act is effective when it becomes law.