SENATE BILL 409: Crim Law & Proc Changes/Civ Youth Grps/Signs.

2023-2024 General Assembly

Committee:		**Date:**	September 19, 2023
Introduced by:	Sens. Britt, McInnis, Craven	**Prepared by:**	Debbie Griffiths
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: Senate Bill 409 would do the following:

- ***Modify the criminal law for breaking and entering a vehicle of any kind to increase the punishment depending on the value of the property taken from the vehicle.***
- ***Permit the aggregation of multiple convictions of financial crimes for sentencing.***
- ***Provide jurisdiction to the court of each county where one of the financial crimes occurred.***
- ***Require public school units to allow civic youth groups to present to students during civic focus week.***
- ***Provide that, except in limited circumstances, a local government must compensate the owner of an on-premises advertising sign if the local government adopts or amends an ordinance requiring the owner of the sign to bring the sign into compliance with the ordinance.***

CURRENT LAW AND BILL ANALYSIS:

Sections 1 and 2

G.S. 14-56(a) provides that breaking or entering into a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, with the intent to commit a felony or larceny, is a Class I felony. G.S. 14-56(a1) provides that if the vehicle broken into is owned by law enforcement, the National Guard, or the Armed Forces of the United States, and the offender knows that the vehicle belongs to one of these parties, then the violation will be punished as a Class H felony.

G.S. 14-86.1 provides that any conveyances used in the commission of certain crimes are subject to seizure and forfeiture by law enforcement.

Section 1 of the act would modify G.S. 14-56, to make the punishment for a violation of this law increase with the value of the property taken from the vehicle. The new punishments for breaking or entering a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, with the intent to commit a felony or larceny would be the following:

- Class H felony →
  - If the value of goods stolen exceeds $1,500, but is not more than $20,000 or
  - If the vehicle is owned by law enforcement, the National Guard, or the Armed Forces of the United States, and the offender knows that the vehicle belongs to one of these parties.
- Class G felony → if the value of goods stolen exceeds $20,000 but is not more than $50,000.
- Class F felony → if the value of goods stolen exceeds $50,000 but is not more than $100,000.

- Class C felony → if the value of good stolen exceeds $100,000.
- Class I felony → any other violation of G.S. 14-56 that is not covered by the above (for example, if the value of the goods stolen is $1,500 or less).

The values of stolen property may be aggregated from multiple violations that occur within a 90-day period, and violations from multiple counties may be aggregated together and be prosecuted in any jurisdiction where at least one violation occurred.

Section 2 of the act would modify G.S. 14-86.1, to allow the seizure and forfeiture of any conveyance that is used in the commission of the crime of breaking and entering vehicles as described above.

Section 3

The crime of embezzlement generally occurs when an agent, consignee, clerk, bailee or servant embezzles, misapplies, or converts money, goods, or other chattels from an employer or while in a position of trust.

- Embezzlement of property or funds valued at more than $100,000 or more is a Class C felony. Class C felony punishment ranges from a minimum of 44 months in prison to a maximum of 231 months in prison, depending on the facts and prior record level.
    - Obtaining property by false pretenses with a value of over $100,000 is also a Class C felony.
- Embezzlement of state property by public officers and employees, of funds by public officers and trustees, and of taxes by officers valued at less than $100,000 is a Class F felony. Class F felony punishment ranges from a minimum of probation to a maximum of 59 months in prison, depending on the facts and prior record level.
    - Exploitation of an older adult or disabled adult resulting in a gain of funds, assets or property valued at $100,000 or more is also a Class F felony.
- The remaining embezzlement offenses of funds or property valued at less than $100,000 are each a Class H felony. Class H felony punishment ranges from a minimum of probation to a maximum of 39 months in prison, depending on the facts and prior record level.

Section 3 of the act would Permit financial crimes of "a common scheme or plan" to be aggregated at sentencing if they were either committed against more than one victim or in more than one county.

Financial crimes are defined as acts of embezzlement, acts of false pretenses, or acts of exploitation of an older adult.

For example, if it is proven that a defendant stole $50,000 on two separate occasions as part of a common scheme, the defendant could be convicted of a Class C felony with a maximum of 231 months in prison, as opposed to two convictions of Class H felonies with a maximum of two consecutive sentences of 39 months in prison each.

Section 4

Section 4 of the act would expand the business records exception to the rule against hearsay by allowing a custodian or witness to certify under penalty of perjury that a document was kept in the regular course of business.

Section 5

Section 5 of the act would require public school units to allow civic youth groups to present to students upon request for a minimum of 10 minutes during 2 weeks in September designated as civic focus week. Civic youth group is any of the following groups:

- Big Brothers Big Sister of America
- Boy Scouts of America
- Boys and Girls Clubs of America
- Future Farmers of America
- Girl Scouts of the United States of America

Section 6

Chapter 160D of the General Statutes contains the procedures cities and counties utilize for development approvals under their planning and development regulations. G.S. 160D-912 authorizes cities and counties to regulate, with limitation, *off-premises* outdoor advertising and require their removal if they are non-conforming. No ordinance can require removal of *off-premises* outdoor advertising unless monetary compensation is paid to the owner of the non-conforming sign. Monetary compensation is the fair market value of the *off-premises* outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal and is determined by certain statutory factors. Payment of monetary compensation for removal of non-conforming *off-premises* outdoor advertising is not required where:

- The local government and sign owner enter into a relocation agreement.
- The local government and sign owner enter into an agreement allowing the sign to remain in place for a fixed period of time.
- The sign is a public nuisance or is detrimental to the public health or safety.
- Removal is required for a street or sidewalk project or public enterprise construction and the sign is relocated.
- Removal is required under statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.

There are no specific provisions in Chapter 160D of the General Statutes pertaining to the authority of cities and counties to regulate *on-premises* outdoor advertising.

Section 6 of the act would provide that a local government may not adopt or amend an ordinance to require the owner of a nonconforming *on-premises* advertising sign to bring the sign into conformity unless the local government either (1) pays monetary compensation to the owner of the nonconforming sign, whereupon the local government would then own the sign and be required to remove it or (2) reimburses the owner in an amount equal to the difference in the fair market value of the nonconforming sign and the reasonable cost to bring the sign into compliance, whereupon the owner would be required to bring the sign into compliance in a timely manner. A nonconforming sign would be defined as an *on-premises* advertisement that was lawfully installed but which does not comply with current ordinances or regulations.

Monetary compensation would be the fair market value of the nonconforming sign in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal. In determining monetary compensation, the local government would be required to use the factors listed in G.S. 105-317.1(a). If the local government and owner of the sign are unable to agree on the amount of monetary compensation or reimbursement owed

to the owner of the sign an action may be commenced by the local government in superior court for a determination of compensation.

Monetary compensation would not be required in the following circumstances:

- If the local government and owner of the sign enter into a voluntary agreement allowing for removal of the sign after a set period of time.
- If the nonconforming sign is a public nuisance or detrimental to the health and safety of the public.
- If removal of the nonconforming sign is required for a street or sidewalk project or public enterprise construction and the sign is relocated.
- If the nonconforming sign is subject to removal under statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.

EFFECTIVE DATE: Sections 1 through 3 of this act become effective December 1, 2023, and apply to offenses committed on or after that date. Section 4 of this act becomes effective December 1, 2023. Section 5 of this act is effective when it becomes law and applies beginning with the 2024-2025 school year. Except as otherwise provided, the remainder of this act becomes effective when it becomes law.

**Susan Sitze, Alex Ramirez, Robert Ryan, Brian Gwyn, Nicholas Giddings, and Billy Godwin, Staff Attorneys, substantially contributed to this summary.*