

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1015

Short Title: Infraction Procedures.

(Public)

Sponsors: Representatives R. Hunter; and Cole.

Referred to: Judiciary II.

April 19, 1993

A BILL TO BE ENTITLED

AN ACT RELATING TO PRAYERS FOR JUDGEMENT IN INFRACTION CASES
WHERE THE NATIONAL SAFETY COUNCIL DEFENSIVE DRIVING
COURSE, OR A SIMILAR APPROVED COURSE, HAS BEEN COMPLETED
BY THE PERSON CITED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-302(c) reads as rewritten:

"(c) Contents. – The citation must:

- (1) Identify the crime charged, including the date, and where material, identify the property and other persons involved,
- (2) Contain the name and address of the person cited, or other identification if that cannot be ascertained,
- (2a) Explain the opportunity to execute a written waiver of appearance pursuant to G.S. 15A-1114(d), 15A-1011 or 7A-146(8a), and inform the person cited where to obtain the form,
- (2b) Explain the availability of a prayer for judgement continued pursuant to G.S. 15A-1114(h), and inform the person cited where to obtain information about the defensive driving course,
- (3) Identify the officer issuing the citation, and
- (4) Cite the person to whom issued to appear in a designated court, at a designated time and date."

Sec. 2. G.S. 7A-146 is amended to add a new subdivision to read:

- "(8a) Establishing an administrative procedure pursuant to subdivision (8) of this section for approval of prayer for judgement continued

1 followed by successful completion of the defensive driving course
2 provided for under G.S. 15A-1114(h)."

3 Sec. 3. G.S. 15A-1114 reads as rewritten:

4 **"§ 15A-1114. Hearing procedure for infractions.**

5 (a) Jurisdiction. – Jurisdiction for the adjudication and disposition of infractions
6 is as specified in G.S. 7A-253 and G.S. 7A-271(d).

7 (b) No Trial by Jury. – In adjudicatory hearings for infractions, no party has a
8 right to a trial by jury in district court.

9 (c) Infractions Heard in Civil or Criminal Session. – A district court judge may
10 conduct proceedings relating to traffic infractions in a civil or criminal session of court,
11 unless the infraction is joined with a criminal offense arising out of the same transaction
12 or occurrence. In such a case, the criminal offense and the infraction must be heard at a
13 session in which criminal matters may be heard.

14 (d) Pleas. – A person charged with an infraction may admit or deny responsibility
15 for the infraction. The plea must be made by the person charged in open court, unless he
16 submits a written waiver of appearance which is approved by the presiding judge, or, if
17 authorized by G.S. 7A-146, he waives his right to a hearing and admits responsibility
18 for the infraction in writing and pays the specified penalty and ~~costs~~ costs, or receives
19 the disposition provided for under subsection (h) of this section.

20 (e) Duty of District Attorney. – The district attorney is responsible for ensuring that
21 infractions are calendared and prosecuted efficiently.

22 (f) Burden of Proof. – The State must prove beyond a reasonable doubt that the
23 person charged is responsible for the infraction unless the person admits responsibility.

24 (g) Recording Not Necessary. – The State does not have to record the
25 proceedings at infraction hearings. With the approval of the court, a party may, at his
26 expense, record any proceeding.

27 (h) Prayer for Judgment Continued; Infractions. – Upon successful completion of
28 the National Safety Council Defensive Driving Course or other driver improved clinic
29 or course sanctioned and approved by the Division of Motor Vehicles, payment of the
30 fee established by the Division of Motor Vehicles for such course, payment of the costs
31 of court and admission of responsibility, plea of guilty or adjudication of guilty or
32 responsible for an infraction, the person cited may be issued a prayer for judgment
33 continued as to the infraction charged, provided the person has not received a prayer for
34 judgment continued during the five-year period immediately preceding the date of
35 occurrence of the infraction."

36 Sec. 4. This act becomes effective with respect to infractions committed on
37 or after December 1, 1993.