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A BILL TO BE ENTITLED  
AN ACT TO MAKE TECHNICAL CORRECTIONS TO CERTAIN CRIMINAL  
LAWS AND TO AMEND THE CRIMINAL PENALTIES FOR CERTAIN  
CRIMINAL LAWS AS RECOMMENDED BY THE NORTH CAROLINA  
SENTENCING AND POLICY ADVISORY COMMISSION AND OTHERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-107 reads as rewritten:

"§ 14-107. Worthless checks.

(a) It ~~shall be~~ is unlawful for any person, firm or corporation, to draw, make, utter or issue and deliver to another, any check or draft on any bank or depository, for the payment of money or its equivalent, knowing at the time of the making, drawing, uttering, issuing and delivering ~~such the~~ check or ~~draft as aforesaid, draft,~~ that the maker or drawer ~~thereof~~ of it has not sufficient funds on deposit in or credit with ~~such the~~ bank or depository with which to pay the ~~same check or draft~~ upon presentation.

(b) It ~~shall be~~ is unlawful for any person, firm or corporation to solicit or to aid and abet any other person, firm or corporation to draw, make, utter or issue and deliver to any person, firm or corporation, any check or draft on any bank or depository for the payment

1 of money or its equivalent, being informed, knowing or having reasonable grounds for  
2 believing at the time of the soliciting or the aiding and abetting that the maker or the  
3 drawer of the check or draft has not sufficient funds on deposit in, or credit with, ~~such the~~  
4 bank or depository with which to pay the ~~same check or draft~~ upon presentation.

5 (c) The word "credit" as used ~~herein shall be construed to mean in this section means~~  
6 an arrangement or understanding with the bank or depository for the payment of ~~any such~~  
7 a check or draft.

8 (d) A violation of this section ~~shall be~~ is a Class I felony if the amount of the check  
9 or draft is more than two thousand dollars (\$2,000). If the amount of the check or draft is  
10 two thousand dollars (\$2,000) or less, a violation of this section ~~shall be~~ is a misdemeanor  
11 punishable as follows:

12 (1) ~~Except as provided in subdivision (3) or (4) of this subsection, if the~~  
13 ~~amount of the check or draft is not over one hundred dollars (\$100.00), the~~  
14 ~~person is guilty of a Class 2 misdemeanor. Provided, however, if such~~  
15 ~~the person has been convicted three times of violating G.S. 14-107, he~~  
16 ~~this section, the person shall on the fourth and all subsequent~~  
17 ~~convictions (i) be punished as for a Class 1 misdemeanor and (ii) be~~  
18 ~~ordered, as a condition of probation, to refrain from maintaining a~~  
19 ~~checking account or making or uttering a check for three years.~~

20 (2) ~~If the amount of the check or draft is over one hundred dollars~~  
21 ~~(\$100.00), the person is guilty of a Class 2 misdemeanor. Provided,~~  
22 ~~however, if such person has been convicted three times of violating G.S.~~  
23 ~~14-107, he shall on the fourth and all subsequent convictions (i) be~~  
24 ~~punished in the discretion of the district or superior court as for a Class~~  
25 ~~1 misdemeanor and (ii) be ordered, as a condition of probation, to~~  
26 ~~refrain from maintaining a checking account or making or uttering a~~  
27 ~~check for three years.~~

28 (3) If the check or draft is drawn upon a nonexistent account, the person is  
29 guilty of a Class 1 misdemeanor.

30 (4) If the check or draft is drawn upon an account that has been closed by  
31 the drawer, or that the drawer knows to have been closed by the bank or  
32 depository, prior to time the check is drawn, the person is guilty of a  
33 Class 1 misdemeanor.

34 (e) In deciding to impose any sentence other than an active prison sentence, the  
35 sentencing judge shall consider and may require, in accordance with the provisions of  
36 G.S. 15A-1343, restitution to the victim for (i) the amount of the check or draft, (ii) any  
37 service charges imposed on the payee by a bank or depository for processing the  
38 dishonored check, and (iii) any processing fees imposed by the payee pursuant to G.S.  
39 25-3-506, and each prosecuting witness (whether or not under subpoena) shall be entitled  
40 to a witness fee as provided by G.S. 7A-314 which shall be taxed as part of the cost and  
41 assessed to the defendant."

42 Section 2. G.S. 14-229 reads as rewritten:

43 "**§ 14-229. Acting as officer before qualifying as such.**

1 If any officer shall enter on the duties of his office before he executes and delivers to  
2 the authority entitled to receive the same the bonds required by law, and qualifies by  
3 taking and subscribing and filing in the proper office the oath of office prescribed, he  
4 shall be guilty of a Class 1 misdemeanor and shall be ejected from his office."

5 Section 3. G.S. 15A-1340.14(b) reads as rewritten:

6 "(b) Points. – Points are assigned as follows:

7 (1) For each prior felony Class A conviction, 10 points.

8 (1a) For each prior felony Class B1 conviction, 9 points.

9 (2) For each prior felony Class B2, C, or D conviction, 6 points.

10 (3) For each prior felony Class E, F, or G conviction, 4 points.

11 (4) For each prior felony Class H or I conviction, 2 points.

12 (5) For each prior ~~Class A1 or Class 1 misdemeanor conviction or prior~~  
13 ~~impaired driving conviction under G.S. 20-138.1, conviction as defined~~  
14 ~~in this subsection, 1 point, except that convictions for Class 1~~  
15 ~~misdemeanor offenses under Chapter 20 of the General Statutes, other~~  
16 ~~than conviction for misdemeanor death by vehicle (G.S. 20-141.4(a2))~~  
17 ~~and conviction for impaired driving in a commercial vehicle (G.S. 20-~~  
18 ~~138.2), shall not be assigned any points for purposes of determining a~~  
19 ~~person's prior record for felony sentencing point. For purposes of this~~  
20 ~~subsection, misdemeanor is defined as any Class A1 and Class 1~~  
21 ~~nontraffic misdemeanor offense, impaired driving (G.S. 20-138.1),~~  
22 ~~impaired driving in a commercial vehicle (G.S. 20-138.2), and~~  
23 ~~misdemeanor death by vehicle (G.S. 20-141.4(a2)), but not any other~~  
24 ~~misdemeanor traffic offense under Chapter 20 of the General Statutes.~~

25 (6) If all the elements of the present offense are included in any prior  
26 offense for which the offender was convicted, whether or not the prior  
27 offense or offenses were used in determining prior record level, 1 point.

28 (7) If the offense was committed while the offender was on supervised or  
29 unsupervised probation, parole, or post-release supervision, or while the  
30 offender was serving a sentence of imprisonment, or while the offender  
31 was on escape from a correctional institution while serving a sentence of  
32 imprisonment, 1 point.

33 For purposes of determining prior record points under this subsection, a conviction for  
34 a first degree rape or a first degree sexual offense committed prior to the effective date of  
35 this subsection shall be treated as a felony Class B1 conviction, and a conviction for any  
36 other felony Class B offense committed prior to the effective date of this subsection shall  
37 be treated as a felony Class B2 conviction."

38 Section 4. G.S. 19A-35 reads as rewritten:

39 "**§ 19A-35. Penalty for failure to adequately care for animals; disposition of**  
40 **animals.**

41 Failure of any person licensed or registered under this Article to adequately house,  
42 feed, and water animals in his possession or custody shall constitute a Class 3  
43 misdemeanor, and such person shall be subject to a fine of not less than five dollars

1 (\$5.00) per animal or more than a total of one thousand dollars (\$1,000). Such animals  
2 shall be subject to seizure and impoundment and upon conviction may be sold or  
3 euthanized at the discretion of the Director and such failure shall also constitute grounds  
4 for revocation of license after public hearing. ~~The Director is hereby authorized to disburse~~  
5 ~~State funds in such amount as in his discretion is necessary to provide for the welfare of animals~~  
6 ~~until either sold or euthanized and any fine levied in connection with this section shall be applied~~  
7 ~~toward reimbursement of such State funds as the Director shall have expended."~~

8 Section 5. G.S. 106-418.14 reads as rewritten:

9 **"§ 106-418.14. Penalties.**

10 Any person who violates G.S. 106-418.10(1) ~~may be fined not in excess of one hundred~~  
11 ~~dollars (\$100.00) or imprisoned for not in excess of 30 days. is guilty of a Class 3~~  
12 misdemeanor. For a second or subsequent violation of G.S. 106-418.10(1), a person ~~may~~  
13 ~~be fined not in excess of five hundred dollars (\$500.00) or imprisoned for not in excess of six~~  
14 ~~months, or both fined and imprisoned. is guilty of a Class 2 misdemeanor."~~

15 Section 6. G.S. 106-549.35(a) reads as rewritten:

16 "(a) Any person, firm, or corporation who violates any provision of this or the  
17 previous Article or any regulation of the Board for which no other criminal penalty is  
18 provided by this or the previous Article ~~shall upon conviction be subject to imprisonment for~~  
19 ~~not more than six months, or a fine of not more than five hundred dollars (\$500.00), or both such~~  
20 ~~imprisonment and fine; is guilty of a Class 2 misdemeanor;~~ but if such violation involves  
21 intent to defraud, or any distribution or attempted distribution of an article that is  
22 adulterated (except as defined in G.S. 106-549.15(1)h, such person, firm or corporation  
23 ~~shall be subject to imprisonment for not more than three years or is guilty of a Class H felony~~  
24 which may include a fine of not more than ten thousand dollars (\$10,000) or both:  
25 (\$10,000). Provided, that no person, firm, or corporation shall be subject to penalties  
26 under this section for receiving for transportation any article or animal in violation of this  
27 or the previous Article if such receipt was made in good faith, unless such person, firm,  
28 or corporation refuses to furnish on request of a representative of the Meat and Poultry  
29 Inspection Service the name and address of the person from whom he received such  
30 article or animal, and copies of all documents, if any there be, pertaining to the delivery  
31 of the article or animal to him."

32 Section 7. G.S. 106-549.59 reads as rewritten:

33 **"§ 106-549.59. Punishment for violations; carriers exempt; interference with**  
34 **enforcement.**

35 (a) Any person who violates the provisions of G.S. 106-549.56, 106-549.57, 106-  
36 549.58 or 106-549.61 ~~shall be fined not more than one thousand dollars (\$1,000) or imprisoned~~  
37 ~~not more than one year, or both; is guilty of a Class 1 misdemeanor;~~ but if such violation  
38 involves intent to defraud, or any distribution or attempted distribution of an article that is  
39 adulterated (except as defined in G.S. 106-549.51(1)h), such person ~~shall be fined is guilty~~  
40 of a Class H felony which may include a fine of not more than ten thousand dollars  
41 (\$10,000) or imprisoned not more than three years or both. (\$10,000). When construing or  
42 enforcing the provisions of said sections the act, omission, or failure of any person acting  
43 for or employed by any individual, partnership, corporation, or association within the

1 scope of his employment or office shall in every case be deemed the act, omission, or  
2 failure of such individual, partnership, corporation, or association, as well as of such  
3 person.

4 (b) No carrier shall be subject to the penalties of this Article, other than the  
5 penalties for violation of G.S. 106-549.58, by reason of his receipt, carriage, holding, or  
6 delivery, in the usual course of business, as a carrier, of poultry or poultry products,  
7 owned by another person unless the carrier has knowledge, or is in possession of facts  
8 which would cause a reasonable person to believe that such poultry or poultry products  
9 were not inspected or marked in accordance with the provisions of this Article or were  
10 otherwise not eligible for transportation under this Article or unless the carrier refuses to  
11 furnish on request of a representative of the Department of Agriculture and Consumer  
12 Services the name and address of the person from whom he received such poultry or  
13 poultry products, and copies of all documents, if any there be, pertaining to the delivery  
14 of the poultry or poultry products to such carrier.

15 (c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or  
16 interferes with any person while engaged in or on account of the performance of his  
17 official duties under this Article ~~shall be fined~~ is guilty of a Class 2 misdemeanor which  
18 may include a fine of not more than five thousand dollars (\$5,000) or imprisoned not more  
19 than three years, or both. (\$5,000). Whoever, in the commission of any such acts, uses a  
20 deadly or dangerous weapon, ~~shall be fined~~ is guilty of a Class A1 misdemeanor which  
21 may include a fine of not more than ten thousand dollars (\$10,000) or imprisoned not more  
22 than 10 years, or both. (\$10,000)."

23 Section 8. G.S. 106-549.71 reads as rewritten:

24 "**§ 106-549.71. Penalty for violation.**

25 Any person, firm or corporation violating the provisions of this Article ~~shall, upon~~  
26 ~~conviction, be fined or imprisoned in the discretion of the court.~~ is guilty of a Class 1  
27 misdemeanor."

28 Section 9. G.S. 106-549.88 reads as rewritten:

29 "**§ 106-549.88. Penalties.**

30 Any person who violates any provisions of this Article or any regulations thereunder  
31 ~~shall, upon conviction thereof, be subject to a fine of not more than five hundred dollars~~  
32 ~~(\$500.00) or imprisonment not to exceed six months, or both fine and imprisonment.~~ is  
33 guilty of a Class 2 misdemeanor."

34 Section 10. G.S. 113-337(b) reads as rewritten:

35 "(b) Each person convicted of violating the provisions of this Article ~~shall in~~  
36 ~~addition to any other penalty prescribed in the discretion of the court be fined not less~~  
37 ~~than one hundred dollars (\$100.00) upon the first conviction, and not less than five~~  
38 ~~hundred dollars (\$500.00) upon any subsequent conviction.~~ is guilty of a Class 1  
39 misdemeanor."

40 Section 11. This act becomes effective December 1, 1999, and applies to acts  
41 committed on or after that date.