

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

3

HOUSE BILL 786
Committee Substitute Favorable 5/2/13
Committee Substitute #2 Favorable 7/11/13

Short Title: RECLAIM NC Act.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE REASONABLE ENACTMENT OF COMPREHENSIVE
3 LEGISLATION ADDRESSING IMMIGRATION MATTERS IN NORTH CAROLINA
4 (RECLAIM NC) ACT.

5 Whereas, the North Carolina General Assembly recognizes that the issue of
6 immigration is the responsibility of the federal government; and

7 Whereas, the federal government has failed to address the need for enforcement of
8 existing immigration laws or to act decisively to correct, amend, and reform existing
9 immigration procedures and policies; and

10 Whereas, federal courts have consistently upheld the authority of the federal
11 government to restrict the efforts of states to uphold and enforce federal immigration laws in
12 order to protect their citizens and their economies; and

13 Whereas, the federal government has endowed illegally present aliens with certain
14 entitlements to be provided by the various states via unfunded mandates; and

15 Whereas, those unfunded mandates and the failure to address illegal immigration
16 places an unwarranted strain on our State's law enforcement agencies, educational institutions,
17 and social safety nets and undermines our trust in the rule of law; and

18 Whereas, the General Assembly of North Carolina recognizes its responsibility to
19 protect and defend the citizens and the economy of the State of North Carolina; and

20 Whereas, North Carolina recognizes that the greatness of this State is the result of
21 appreciating, incorporating, and welcoming the vast diversity of immigrants who lawfully
22 assimilate into the culture and fabric that is North Carolina; and

23 Whereas, we do now encourage the North Carolina congressional delegation to
24 exert the strongest effort possible to enact appropriate federal legislation to secure our nation's
25 borders, uphold existing immigration laws, and reform the procedures and policies regarding
26 the immigration process in order to facilitate an even and orderly process for those wishing to
27 immigrate to our country; and

28 Whereas, we encourage the President to work in a dedicated and cooperative
29 fashion with Congress to restore dignity and transparency to the immigration process; and

30 Whereas, the wealth, beauty, and strength of North Carolina rests not only with her
31 natural attributes of mountains, beaches, and abundant resources but in the character of her
32 people and their ability to address problems and challenges before them with an objective
33 resolve tempered with a sense of fairness and consideration for all people; Now, therefore,
34 The General Assembly of North Carolina enacts:

35



PART I. SHORT TITLE

SECTION 1. This act shall be known and may be cited as "The Reasonable Enactment of Comprehensive Legislation Addressing Immigration Matters in North Carolina Act" or as "The RECLAIM NC Act".

PART II. INCREASE PENALTIES FOR POSSESSION, MANUFACTURE, OR SALE OF FALSE IDENTIFICATION DOCUMENTS

SECTION 2.(a) G.S. 14-100.1 reads as rewritten:

"§ 14-100.1. ~~Possession or manufacture~~ Possession, manufacture, or sale of certain fraudulent forms of identification.

(a) Except as otherwise made unlawful by G.S. 20-30, it ~~shall be~~ is unlawful for any person to knowingly ~~possess or manufacture~~ possess, manufacture, or sell a false or fraudulent form of identification as defined in this section for the purpose of deception, fraud, or other criminal conduct.

(b) Except as otherwise made unlawful by G.S. 20-30, it ~~shall be~~ is unlawful for any person to knowingly obtain a form of identification by the use of false, fictitious, or fraudulent information.

(c) Possession of a form of identification obtained in violation of subsection (b) of this section ~~shall constitute~~ is a violation of subsection (a) of this section.

(d) For purposes of this section, a "form of identification" means any of the following or any replica thereof:

(1) An identification card containing a picture, issued by any department, agency, or subdivision of the State of North Carolina, the federal government, or any other state.

(2) A military identification card containing a picture.

(3) A passport.

(4) An alien registration card containing a picture.

(e) A violation of this section shall be punished as a ~~Class 1 misdemeanor~~ Class I felony, except that the following violations of this section shall be punished as a Class 1 misdemeanor:

(1) A violation based on the mere possession of a false or fraudulent form of identification, rather than the manufacture or sale of a false or fraudulent form of identification.

(2) A violation by a person under the age of 21 for the purpose of the underage purchase of alcohol.

(3) A violation by a person under the age of 18 for the purpose of the underage purchase of tobacco products or cigarette wrapping papers."

SECTION 2.(b) G.S. 20-30 reads as rewritten:

"§ 20-30. Violations of license, learner's permit, restricted drivers permit, or special identification card provisions.

(a) Unlawful Acts. – It ~~shall be~~ is unlawful for any person to commit any of the following acts:

(1) To display or cause to be displayed or to have in possession a driver's license, learner's permit, restricted drivers permit, or special identification card, knowing the same to be fictitious or to have been canceled, revoked, suspended or altered.

(2) To counterfeit, sell, lend to, or knowingly permit the use of, by one not entitled thereto, a driver's license, learner's permit, restricted drivers permit, or special identification card.

- 1 (3) To display or to represent as one's own a drivers license, learner's permit,
2 restricted drivers permit, or special identification card not issued to the
3 person so displaying same.
- 4 (4) To fail or refuse to surrender to the Division upon demand any driver's
5 license, learner's permit, restricted drivers permit, or special identification
6 card that has been suspended, canceled or revoked as provided by law.
- 7 (5) To use a false or fictitious name or give a false or fictitious address in any
8 application for a driver's license, learner's permit, restricted drivers permit,
9 or special identification card, or any renewal or duplicate thereof, or
10 knowingly to make a false statement or knowingly conceal a material fact or
11 otherwise commit a fraud in any such application, or for any person to
12 procure, or knowingly permit or allow another to commit any of the
13 foregoing acts. Any license, learner's permit, restricted drivers permit, or
14 special identification card procured as aforesaid ~~shall be~~ is void from the
15 issuance thereof, and any moneys paid therefor shall be forfeited to the State.
16 ~~Any person violating the provisions of this subdivision shall be guilty of a~~
17 ~~Class 1 misdemeanor.~~
- 18 (6) To make a color photocopy or otherwise make a color reproduction of a
19 drivers license, learner's permit, restricted drivers permit, or special
20 identification card ~~which~~ that has been color-photocopied or otherwise
21 reproduced in color, unless ~~such~~ the color photocopy or other color
22 reproduction was authorized by the Commissioner. It ~~shall be~~ is lawful to
23 make a black and white photocopy of a drivers license, learner's permit,
24 restricted drivers permit, or special identification card or otherwise make a
25 black and white reproduction of a drivers license, learner's permit, restricted
26 drivers permit, or special identification card.
- 27 (7) To sell or offer for sale any reproduction or facsimile or simulation of a
28 driver's license, learner's permit, restricted drivers permit, or special
29 identification card. The provisions of this subdivision ~~shall do~~ not apply to
30 agents or employees of the Division while acting in the course and scope of
31 their employment. ~~Any~~ Notwithstanding subsection (c) of this section, a
32 person, firm or corporation violating the provisions of this ~~subsection shall~~
33 ~~be~~ subdivision is guilty of a ~~Class I~~ Class H felony.
- 34 (8) To possess more than one commercial drivers license or to possess a
35 commercial drivers license and a regular drivers ~~license~~ license or restricted
36 drivers permit. Any commercial drivers license other than the one most
37 recently issued is subject to immediate seizure by any law enforcement
38 officer or judicial official. Any regular drivers license possessed at the same
39 time as a commercial drivers license is subject to immediate seizure by any
40 law enforcement officer or judicial official.
- 41 (9) To present, display, or use a drivers license, learner's permit, restricted
42 drivers permit, or special identification card that contains a false or fictitious
43 name in the commission or attempted commission of a felony. ~~Any person~~
44 ~~violating the provisions of this subdivision shall be guilty of a Class I felony.~~
- 45 (b) General Penalty. – Except as otherwise provided in subsections (a) and (c) of this
46 section, a violation of this section shall be punished as a Class I felony.
- 47 (c) Penalty in Certain Cases. – A violation of this section by a person under the age of
48 21 for the purpose of the underage purchase of alcohol shall be punished as a Class 1
49 misdemeanor. A violation of this section by a person under the age of 18 for the purpose of the
50 underage purchase of tobacco products or cigarette wrapping papers shall be punished as a
51 Class 2 misdemeanor."

1 **SECTION 2.(c)** G.S. 143-341(8)i.5. reads as rewritten:

2 "5. Upon proper requisition, proper showing of need for use on
3 State business only, and proper showing of proof that all
4 persons who will be driving the motor vehicle have valid
5 drivers' licenses, to assign economically suitable
6 transportation, either on a temporary or permanent basis, to
7 any State employee or agency. An agency assigned a motor
8 vehicle may not allow a person to operate that motor vehicle
9 unless that person displays to the agency and allows the
10 agency to copy that person's valid driver's license.
11 Notwithstanding ~~G.S. 20-30(6)~~, G.S. 20-30(a)(6), persons or
12 agencies requesting assignment of motor vehicles may
13 photostat or otherwise reproduce drivers' licenses for
14 purposes of complying with this subpart.

15 As used in this subpart, "economically suitable
16 transportation" means the most cost-effective standard vehicle
17 in the State motor fleet, unless special towing provisions are
18 required by the agency. The Department may not assign any
19 employee or agency a motor vehicle that is not economically
20 suitable. The Department shall not approve requests for
21 vehicle assignment or reassignment when the purpose of that
22 assignment or reassignment is to provide any employee with
23 a newer or lower mileage vehicle because of ~~his or her~~ the
24 employee's rank, management authority, or length of service
25 or because of any non-job-related reason. The Department
26 shall not assign "special use" vehicles, such as four-wheel
27 drive vehicles or law enforcement vehicles, to any agency or
28 individual except upon written justification, verified by
29 historical data, and accepted by the Secretary. The
30 Department may provide law enforcement vehicles only to
31 those agencies ~~which~~ that have statutory pursuit authority."
32

33 **PART III. CREATION OF REBUTTABLE PRESUMPTION AGAINST THE**
34 **PRETRIAL RELEASE OF CERTAIN UNDOCUMENTED ALIENS**

35 **SECTION 3.(a)** G.S. 15A-533 reads as rewritten:

36 **"§ 15A-533. Right to pretrial release in capital and noncapital cases.**

37 (a) A defendant charged with any crime, whether capital or noncapital, who is alleged
38 to have committed this crime while still residing in or subsequent to his escape or during an
39 unauthorized absence from involuntary commitment in a mental health facility designated or
40 licensed by the Department of Health and Human Services, and whose commitment is
41 determined to be still valid by the judge or judicial officer authorized to determine pretrial
42 release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the
43 individual shall be returned to the treatment facility in which he was residing at the time of the
44 alleged crime or from which he escaped or absented himself for continuation of his treatment
45 pending the additional proceedings on the criminal offense.

46 (b) A defendant charged with a noncapital offense must have conditions of pretrial
47 release determined, in accordance with G.S. 15A-534.

48 (c) A judge may determine in ~~his~~ the judge's discretion whether a defendant charged
49 with a capital offense may be released before trial. If ~~he~~ the judge determines release is
50 warranted, the judge must authorize release of the defendant in accordance with G.S. 15A-534.

1 (d) There shall be a rebuttable presumption that no condition of release will reasonably
2 assure the appearance of the person as required and the safety of the community if a judicial
3 official finds the following:

- 4 (1) There is reasonable cause to believe that the person committed an offense
5 involving trafficking in a controlled substance;
- 6 (2) The drug trafficking offense was committed while the person was on pretrial
7 release for another offense; and
- 8 (3) The person has been previously convicted of a Class A through E felony or
9 an offense involving trafficking in a controlled substance and not more than
10 five years has elapsed since the date of conviction or the person's release
11 from prison for the offense, whichever is later.

12 (e) There shall be a rebuttable presumption that no condition of release will reasonably
13 assure the appearance of the person as required and the safety of the community, if a judicial
14 official finds the following:

- 15 (1) There is reasonable cause to believe that the person committed an offense for
16 the benefit of, at the direction of, or in association with, any criminal street
17 gang, as defined in G.S. 14-50.16;
- 18 (2) The offense described in subdivision (1) of this subsection was committed
19 while the person was on pretrial release for another offense; and
- 20 (3) The person has been previously convicted of an offense described in
21 G.S. 14-50.16 through G.S. 14-50.20, and not more than five years has
22 elapsed since the date of conviction or the person's release for the offense,
23 whichever is later.

24 (f) There shall be a rebuttable presumption that no condition of release will reasonably
25 assure the appearance of the person as required and the safety of the community if the person is
26 unlawfully present in the United States and a judicial official finds either of the following:

- 27 (1) There is probable cause to believe that the person committed one or more of
28 the following offenses:
 - 29 a. A sex offense. As used in this sub-subdivision, a "sex offense" is any
30 offense upon conviction of which the offense becomes a reportable
31 conviction, as that term is defined in G.S. 14-208.6(4).
 - 32 b. A violent felony, as that term is defined in G.S. 14-7.7(b), or any
33 criminal offense other than a violation of G.S. 14-33(a) that includes
34 assault as an essential element of the offense or as an aggravating
35 factor in sentencing.
 - 36 c. A driving offense. As used in this sub-subdivision, the term "driving
37 offense" means any violation that requires a mandatory drivers
38 license revocation upon a first conviction.
 - 39 d. A drug offense. As used in this sub-subdivision, the term "drug
40 offense" means a violation of G.S. 90-95, other than a violation for
41 mere possession of a controlled substance.
 - 42 e. A gang offense. As used in this sub-subdivision, the term "gang
43 offense" means any violation of Article 13A of Chapter 14 of the
44 General Statutes.
- 45 (2) There is probable cause to believe that the person committed an offense not
46 listed in subdivision (f)(1) of this section and United States Immigration and
47 Customs Enforcement has issued a detainer for the initiation of removal
48 proceedings against the person or has indicated that it will do so.

49 Persons who are considered for bond under the provisions of ~~subsections (d) and (e)~~ subsection
50 (d), (e), or (f) of this section may only be released by a district or superior court judge upon a

1 finding that there is a reasonable assurance that the person will appear and release does not
2 pose an unreasonable risk of harm to the community."

3 **SECTION 3.(b)** Article 26 of Chapter 15A of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 15A-534.7. Pretrial release of certain undocumented aliens.**

6 In all cases in which the defendant is an alien who (i) is not lawfully present in the United
7 States and (ii) is charged with a felony or a Class A1 misdemeanor, the judicial official shall
8 require the defendant to execute a secured appearance bond as a condition of pretrial release, as
9 described in G.S. 15A-534(a)(4)."

10
11 **PART IV. REIMBURSEMENT OF COST OF INCARCERATING UNDOCUMENTED**
12 **ALIENS**

13 **SECTION 4.(a)** Chapter 148 of the General Statutes is amended by adding a new
14 section to read:

15 **"§ 148-2.1. Reimbursement of incarceration costs by prisoners who are unlawfully**
16 **present in the United States.**

17 (a) Undocumented Alien Prisoner Defined. – For purposes of this section, the term
18 "undocumented alien prisoner" means an inmate who is 18 years or older and who is
19 unlawfully present in the United States.

20 (b) Reimbursement Required. – An undocumented alien prisoner who is in the custody
21 of the Division of Adult Correction of the Department of Public Safety after conviction of a
22 crime shall reimburse the State for the actual cost of the prisoner's incarceration, as determined
23 by the Division. The Division shall collect the reimbursement and remit it to the General Fund.

24 (c) Outstanding Amounts. – If an undocumented alien prisoner has not made the full
25 reimbursement required by this section upon the prisoner's release, the Division shall calculate
26 the amount of reimbursement that is outstanding and give a verified statement of that amount to
27 the prisoner. Any reimbursement that remains unpaid shall constitute a "debt" within the
28 meaning of G.S. 105A-2 and may be set off against any North Carolina income tax refund due
29 the prisoner in accordance with Chapter 105A of the General Statutes. The Department of
30 Revenue may pursue collection of the debt through setoff for at least 10 years from the time of
31 the prisoner's release or termination or until the debt is satisfied.

32 (d) Inclusion in Judgment. – In sentencing an individual subject to the requirements of
33 subsection (b) of this section, a judge may include in the judge's order a requirement that the
34 sentenced individual pay an amount estimated to be sufficient to cover the total actual cost of
35 incarcerating the prisoner over the entirety of the prisoner's incarceration. The Department of
36 Public Safety shall develop a system that enables judges to quickly and accurately estimate the
37 appropriate amount. Any amount paid by a prisoner in satisfaction of a term in a court order
38 imposed pursuant to this section shall be credited against the amount the prisoner owes under
39 this section."

40 **SECTION 4.(b)** G.S. 148-33.1(f) reads as rewritten:

41 "(f) A prisoner who is convicted of a felony and who is granted work-release privileges
42 shall give his work-release earnings, less standard payroll deductions required by law, to the
43 Division of Adult Correction of the Department of Public Safety. A prisoner who is convicted
44 of a misdemeanor, is committed to a local confinement facility, and is granted work-release
45 privileges by order of the sentencing court shall give his work-release earnings, less standard
46 payroll deductions required by law, to the custodian of the local confinement facility. Other
47 misdemeanants granted work-release privileges shall give their work-release earnings, less
48 standard payroll deductions required by law, to the Division of Adult Correction of the
49 Department of Public Safety. The Division of Adult Correction of the Department of Public
50 Safety or the sentencing court, as appropriate, shall determine the amount to be deducted from
51 a prisoner's work-release earnings to pay for the cost of the prisoner's keep and to accumulate a

1 reasonable sum to be paid the prisoner when he is paroled or discharged from prison. The
 2 Division or sentencing court shall also determine the amount to be disbursed by the Division or
 3 clerk of court, as appropriate, for each of the following:

- 4 (1) To pay travel and other expenses of the prisoner made necessary by his
 5 ~~employment;~~employment.
 6 (2) To provide a reasonable allowance to the prisoner for his incidental personal
 7 ~~expenses;~~expenses.
 8 (3) To make payments for the support of the prisoner's dependents in
 9 accordance with an order of a court of competent jurisdiction, or in the
 10 absence of a court order, in accordance with a determination of dependency
 11 status and need made by the local department of social services in the county
 12 of North Carolina in which such dependents ~~reside;~~reside.
 13 (3a) To make restitution or reparation as provided in G.S. 148-33.2.
 14 (4) To comply with an order from any court of competent jurisdiction regarding
 15 the payment of an obligation of the prisoner in connection with any
 16 judgment rendered by the court.
 17 (5) To comply with a written request by the prisoner to withhold an amount,
 18 when the request has been granted by the Division or the sentencing court, as
 19 appropriate.
 20 (6) To reimburse the State for the actual cost of the prisoner pursuant to
 21 G.S. 148-2.1.

22 Any balance of his earnings remaining at the time the prisoner is released from prison shall
 23 be paid to him. The Social Services Commission is authorized to promulgate uniform rules and
 24 regulations governing the duties of county social services departments under this section."
 25

26 **PART V. AUTHORIZE IMMIGRATION STATUS CHECKS FOR CERTAIN**
 27 **PERSONS WHO ARE LAWFULLY STOPPED, DETAINED, OR ARRESTED**

28 **SECTION 5.(a)** Article 23 of Chapter 15A of the General Statutes is amended by
 29 adding a new section to read:

30 **"§ 15A-506. Immigration status checks of persons lawfully stopped, detained, or arrested.**

31 (a) Definitions. – The following definitions apply in this section:

- 32 (1) Law enforcement officer or agency. – A law enforcement officer or law
 33 enforcement agency of this State, of a county, of a municipality, or of any
 34 other political subdivision of this State.
 35 (2) Any other law. – An ordinance of a county or municipality of this State or a
 36 State law other than this section.

37 (b) Verification of Status Authorized. – Following any lawful stop, detention, or arrest
 38 made by a law enforcement officer or agency in the enforcement of any other law, where
 39 reasonable suspicion exists that the person stopped, detained, or arrested is an alien who is
 40 unlawfully present in the United States, the law enforcement officer or agency may make a
 41 reasonable attempt to verify the immigration status of the person with the federal government
 42 pursuant to subsection (c) of this section. This section shall not be construed to authorize
 43 consideration of race, color, or ethnicity in the enforcement of this section, except to the extent
 44 permitted by both the Constitution of the United States and the Constitution of North Carolina.

45 (c) Verification Procedure. – Verification of a person's immigration status under this
 46 section shall be made in accordance with G.S. 64-9 as promptly as possible and within two
 47 hours of the stop or detention, unless the person is arrested, in which case the two hour limit
 48 does not apply. This section does not authorize extending the period that a person is detained or
 49 held in custody. A person shall not be detained solely because the person's immigration status
 50 has not yet been verified in accordance with this section.

1 (d) Exceptions. – This section shall not apply, and verification of a person's
2 immigration status shall not be sought, if any of the following conditions are satisfied:

- 3 (1) It is not practicable to verify the person's immigration status.
4 (2) Verifying the person's immigration status may hinder or obstruct an
5 investigation.
6 (3) The person provides the law enforcement officer or agency with any of the
7 following:
8 a. A valid North Carolina drivers license.
9 b. A valid North Carolina identification card.
10 c. A valid North Carolina restricted drivers permit.
11 d. A valid North Carolina restricted identification card.
12 e. A valid tribal enrollment card or other form of tribal identification.
13 f. Any valid United States federal, State, or local government issued
14 identification, if the issuing entity requires proof of lawful presence
15 in the United States before issuance.
16 (4) The person contacted the law enforcement officer or agency in good faith for
17 any of the following reasons:
18 a. To act as a witness to a crime.
19 b. To report criminal activity.
20 c. To seek assistance as a victim of a crime.

21 (e) Consistency With Federal Law. – This section shall be implemented in a manner
22 consistent with federal laws regulating immigration, protecting the civil rights of all persons,
23 and respecting the privileges and immunities of United States citizens."

24 **SECTION 5.(b)** No later than May 1, 2015, the Secretary of Public Safety shall
25 report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety
26 on the first year that G.S. 15A-506 was in effect. The report shall include information about the
27 following during the relevant period:

- 28 (1) The number of persons stopped, detained, or arrested in this State.
29 (2) The number of persons whose immigration status was checked pursuant to
30 G.S. 15A-506.
31 (3) The number of persons found to be unlawfully present in the United States
32 as a result of a status verification performed pursuant to G.S. 15A-506.
33 (4) The racial and national characteristics of each group identified pursuant to
34 subdivisions (1) through (3) of this section.
35 (5) Any other information that the Secretary of Public Safety deems relevant.

36 **SECTION 5.(c)** Each law enforcement officer and law enforcement agency of this
37 State, of a county, of a municipality, and of any other political subdivision of this State shall
38 cooperate with the Secretary of Public Safety in collecting and compiling the information that
39 the Secretary of Public Safety needs in order to create the report required by subsection (b) of
40 this section.

41 **PART VI. MISCELLANEOUS PROVISIONS**

42 **SECTION 6.** Article 1 of Chapter 64 of the General Statutes is amended by adding
43 the following new sections to read:

44 **"§ 64-9. Permissible methods of verifying immigration status.**

45 Verification of a person's immigration status pursuant to this Chapter or any other provision
46 of State law shall be made consistently with federal law and may be made by any of the
47 following methods, as applicable:

- 48 (1) Pursuant to 8 U.S.C. §§ 1373(c) and 1644 or any other provision of federal
49 law.
50

- (2) By a law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status.
- (3) In any other manner authorized by the federal government.

"§ 64-10. Admissibility of immigration status records in courts of this State.

(a) A verification of an alien's immigration status received from the federal government pursuant to G.S. 64-9 shall constitute proof of that alien's status. A court of this State shall consider only a verification of immigration status made pursuant to G.S. 64-9 in determining whether an alien is lawfully present in the United States.

(b) Any record that relates to the immigration status of a person is admissible in any court of this State without further foundation or testimony from a custodian of records if all of the following apply:

- (1) The record is certified as authentic by the federal government agency that is responsible for maintaining the record.
- (2) The State notifies the person at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the record into evidence under this section, and provides a copy of the record to the person.
- (3) The person fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the record would be used that the person objects to the introduction of the record into evidence.

If the person's attorney of record, or that person if he or she is not represented by an attorney, fails to file a written objection as provided in this subsection, then the record may be admitted into evidence without the testimony of the custodian of records. Upon filing a timely objection, the admissibility of the record shall be determined and governed by the appropriate rules of evidence.

"§ 64-11. Law enforcement transport of certain unlawfully present aliens.

Notwithstanding any other provision of law, a State or local law enforcement agency may securely transport an alien who is in the agency's custody and whom the agency has verified is unlawfully present in the United States to a federal facility in this State or to any other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency. A law enforcement agency shall obtain judicial or executive authorization from the Governor before securely transporting an alien who is unlawfully present in the United States to a point of transfer that is outside this State.

"§ 64-12. Construction and severability.

(a) Construction. – This Chapter shall be construed in a manner consistent with federal law.

(b) Severability. – The provisions of this Chapter are severable. If any part of this Chapter is declared invalid or unconstitutional, such declaration shall not affect the remainder. If any particular interpretation or application of the provisions of this Chapter is declared invalid or unconstitutional, such declaration shall not affect other interpretations or applications."

PART VII. PROHIBIT THE USE OF CERTAIN DOCUMENTS FOR IDENTIFICATION PURPOSES

SECTION 7.(a) Chapter 15A of the General Statutes is amended by adding a new Article to read:

"Article 18.

"Identification Documents.

"§ 15A-306. Certain documents not acceptable as identification.

1 (a) The following documents are not acceptable for use in determining a person's actual
2 identity or residency by a justice, judge, clerk, magistrate, law enforcement officer, or other
3 government official:

- 4 (1) A matricula consular or other similar document, other than a valid passport,
5 issued by a consulate or embassy of another country.
6 (2) An identity document issued or created by any person, organization, county,
7 city, or other local authority, except where expressly authorized to be used
8 for this purpose by the General Assembly.

9 (b) No local government or law enforcement agency may establish, by policy or
10 ordinance, the acceptability of any of the documents described in subsection (a) of this section
11 as a form of identification to be used to determine the identity or residency of any person. Any
12 local government policy or ordinance that contradicts this section is hereby repealed."

13 **SECTION 7.(b)** G.S. 20-7(b4) reads as rewritten:

14 "(b4) Examples of documents that are reasonably reliable indicators of residency include,
15 but are not limited to, any of the following:

- 16 (1) A pay stub with the payee's address.
17 (2) A utility bill showing the address of the applicant-payor.
18 (3) A contract for an apartment, house, modular unit, or manufactured home
19 with a North Carolina address signed by the applicant.
20 (4) A receipt for personal property taxes paid.
21 (5) A receipt for real property taxes paid to a North Carolina locality.
22 (6) A current automobile insurance policy issued to the applicant and showing
23 the applicant's address.
24 (7) A monthly or quarterly financial statement from a North Carolina regulated
25 financial institution.
26 ~~(8) A matricula consular or substantially similar document issued by the~~
27 ~~Mexican Consulate for North Carolina.~~
28 ~~(9) A document similar to that described in subsection (8) of this section, issued~~
29 ~~by the consulate or embassy of another country. This subdivision only~~
30 ~~applies if the Division has consulted with the United State Department of~~
31 ~~State and is satisfied with the reliability of such document."~~

32 **SECTION 7.(c)** G.S. 58-2-164(c) reads as rewritten:

33 "(c) The insurer and its agent shall also take reasonable steps to verify that the
34 information provided by an applicant regarding the applicant's address and the place the motor
35 vehicle is garaged is correct. The insurer may take its own reasonable steps to verify residency
36 or eligible risk status or may rely upon the agent verification of residency or eligible risk status
37 to meet the insurer's verification obligations under this section. The agent shall retain copies of
38 any items obtained under this section as required under the record retention rules adopted by
39 the Commissioner and in accordance with G.S. 58-2-185. The agent may satisfy the
40 requirements of this section by obtaining reliable proof of North Carolina residency from the
41 applicant or the applicant's status as an eligible risk. Reliable proof of residency or eligible risk
42 includes but is not limited to:

- 43 (1) A pay stub with the payee's address.
44 (2) A utility bill showing the address of the applicant-payor.
45 (3) A lease for an apartment, house, modular unit, or manufactured home with a
46 North Carolina address signed by the applicant.
47 (4) A receipt for personal property taxes paid.
48 (5) A receipt for real property taxes paid to a North Carolina locality.
49 (6) A monthly or quarterly financial statement from a North Carolina regulated
50 financial institution.
51 (7) A valid unexpired North Carolina driver's license.

- 1 (8) ~~A matricula consular or substantially similar document issued by the~~
2 ~~Mexican Consulate for North Carolina.~~
- 3 (9) ~~A document similar to that described in subdivision (8) of this section,~~
4 ~~issued by the consulate or embassy of another country that would be~~
5 ~~accepted by the North Carolina Division of Motor Vehicles as set forth in~~
6 ~~G.S. 20-7(b4)(9).~~
- 7 (10) A valid North Carolina vehicle registration.
- 8 (11) A valid military ID.
- 9 (12) A valid student ID for a North Carolina school or university."

10 **SECTION 7.(d)** G.S. 108A-55.3(b) reads as rewritten:

11 "(b) An applicant may meet the requirements of subsection (a) of this section by
12 providing at least two of the following documents:

- 13 (1) A valid North Carolina drivers license or other identification card issued by
14 the North Carolina Division of Motor Vehicles.
- 15 (2) A current North Carolina rent or mortgage payment receipt, or current utility
16 bill in the name of the applicant or the applicant's legal spouse showing a
17 North Carolina address.
- 18 (3) A valid North Carolina motor vehicle registration in the applicant's name
19 and showing the applicant's current address.
- 20 (4) A document showing that the applicant is employed in this State.
- 21 (5) One or more documents proving that the applicant's domicile in the
22 applicant's prior state of domicile has ended, such as closing of a bank
23 account, termination of employment, or sale of a home.
- 24 (6) The tax records of the applicant or the applicant's legal spouse, showing a
25 current North Carolina address.
- 26 (7) A document showing that the applicant has registered with a public or
27 private employment service in this State.
- 28 (8) A document showing that the applicant has enrolled the applicant's children
29 in a public or private school or child care facility located in this State.
- 30 (9) A document showing that the applicant is receiving public assistance or
31 other services requiring proof of domicile, other than medical assistance, in
32 this State.
- 33 (10) Records from a health department or other health care provider located in
34 this State showing the applicant's current North Carolina address.
- 35 (11) A written declaration made under penalty of perjury from a person who has
36 a social, family, or economic relationship with the applicant and who has
37 personal knowledge of the applicant's intent to live in North Carolina
38 permanently or for an indefinite period of time or that the applicant is
39 residing in North Carolina to seek employment or with a job commitment.
- 40 (12) Current North Carolina voter registration card.
- 41 (13) A document from the U.S. Department of Veterans Affairs, U.S. Department
42 of Defense, or the U.S. Department of Homeland Security verifying the
43 applicant's intent to live in North Carolina permanently or for an indefinite
44 period of time or that the applicant is residing in North Carolina to seek
45 employment or with a job commitment.
- 46 (14) Official North Carolina school records, signed by school officials, or
47 diplomas issued by North Carolina schools, including secondary schools,
48 community colleges, colleges, and universities verifying the applicant's
49 intent to live in North Carolina permanently or for an indefinite period of
50 time or that the applicant is residing in North Carolina to seek employment
51 or with a job commitment.

1 (15) A document issued by the Mexican consular or other foreign consulate
2 verifying the applicant's intent to live in North Carolina permanently or for
3 an indefinite period of time or that the applicant is residing in North Carolina
4 to seek employment or with a job commitment."
5

6 PART VIII. E-VERIFY CHANGES

7 SECTION 8.(a) G.S. 153A-449 reads as rewritten:

8 "**§ 153A-449. Contracts with private ~~entities~~entities; contractors must use E-Verify.**

9 (a) Authority. – A county may contract with and appropriate money to any person,
10 association, or corporation, in order to carry out any public purpose that the county is
11 authorized by law to engage in.

12 (b) Contractors Must Use E-Verify. – No county may enter into a contract unless the
13 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
14 Chapter 64 of the General Statutes."

15 SECTION 8.(b) G.S. 160A-20.1 reads as rewritten:

16 "**§ 160A-20.1. Contracts with private ~~entities~~entities; contractors must use E-Verify.**

17 (a) Authority. – A city may contract with and appropriate money to any person,
18 association, or corporation, in order to carry out any public purpose that the city is authorized
19 by law to engage in.

20 (b) Contractors Must Use E-Verify. – No city may enter into a contract unless the
21 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
22 Chapter 64 of the General Statutes."

23 SECTION 8.(c) G.S. 143-129 is amended by adding a new subsection to read:

24 "(j) No contract subject to this section may be awarded by any board or governing body
25 of the State, institution of State government, or any political subdivision of the State unless the
26 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
27 Chapter 64 of the General Statutes."

28 SECTION 8.(d) Article 3 of Chapter 143 of the General Statutes is amended by
29 adding a new section to read:

30 "**§ 143-48.5. Contractors must use E-Verify.**

31 No contract subject to the provisions of this Article may be entered into unless the
32 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
33 Chapter 64 of the General Statutes."

34 SECTION 8.(e) G.S. 147-33.95 is amended by adding a new subsection to read:

35 "(g) No contract subject to the provisions of this Part may be entered into unless the
36 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
37 Chapter 64 of the General Statutes."

38 SECTION 8.(f) G.S. 64-25(3) reads as rewritten:

39 "**§ 64-25. Definitions.**

40 The following definitions apply in this Article:

41 ...

42 (3) Employee. – Any individual who provides services or labor for an employer
43 in this State for wages or other remuneration. The term does not include an
44 individual whose term of employment is customarily (i) affected by the
45 seasonality of the industry in which the individual is employed or (ii) less
46 than year-round.

47"

48 SECTION 8.(g) G.S. 64-26(c) is repealed.

49 SECTION 8.(h) Article 2 of Chapter 64 of the General Statutes is amended by
50 adding a new section to read:

1 **"§ 64-39. No employer penalties if employee holds restricted drivers permit or restricted**
2 **identification card.**

3 The Commissioner shall not hold any hearing, issue any order, make any notification, or
4 impose any penalty under this Article if a violation or alleged violation of G.S. 64-26 was with
5 respect to an employee who possesses a valid restricted drivers permit or a valid restricted
6 identification card."

7 **SECTION 8.(i)** Subsections (a) through (e) of this section become effective in
8 accordance with the following schedule and apply to all bids submitted and all contracts
9 entered into on or after that date:

10 (1) October 1, 2013, for contractors that employ 500 or more employees as of
11 that date, and their subcontractors.

12 (2) January 1, 2014, for contractors that employ 100 or more employees but
13 fewer than 500 employees as of that date, and their subcontractors.

14 (3) July 1, 2014, for all other contractors and subcontractors.

15 **SECTION 8.(j)** Subsections (f) through (j) of this section are effective when they
16 become law.

17
18 **PART IX. REQUIRE UNDOCUMENTED ALIEN DRIVERS TO OBTAIN**
19 **RESTRICTED DRIVERS PERMITS**

20 **SECTION 9.(a)** G.S. 20-4.01 is amended by adding a new subdivision to read:

21 "(4c) Criminal history. – A history of conviction of a State or federal crime,
22 whether a misdemeanor or felony, that includes the criminal offenses set
23 forth in any of the following Articles of Chapter 14 of the General Statutes:
24 Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A,
25 Endangering Executive and Legislative Officers; Article 6, Homicide;
26 Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10,
27 Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use
28 of Explosive or Incendiary Device or Material; Article 14, Burglary and
29 Other Housebreakings; Article 15, Arson and Other Burnings; Article 16,
30 Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False
31 Pretenses and Cheats; Article 19A, Obtaining Property or Services by False
32 or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial
33 Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article
34 26, Offenses Against Public Morality and Decency; Article 26A, Adult
35 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,
36 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses
37 Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39,
38 Protection of Minors; Article 40, Protection of the Family; Article 59, Public
39 Intoxication; and Article 60, Computer Related Crime. The crimes also
40 include possession or sale of drugs in violation of the North Carolina
41 Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes,
42 and alcohol-related offenses, including sale to underage persons in violation
43 of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1
44 through G.S. 20-138.5, but shall not include disturbing the public peace,
45 misdemeanor possession of marijuana, worthless checks, misdemeanor
46 larceny, shoplifting, or public drunkenness. The term shall include a final
47 conviction in another state or in a federal jurisdiction of an offense which is
48 substantially similar to any of the offenses listed in this subdivision."

49 **SECTION 9.(b)** G.S. 20-7(f)(3) reads as rewritten:

"(3) ~~Duration of license~~ license, permit, or identification card for certain other ~~drivers~~ individuals. – The durations listed in subdivisions (1), (2) and (2a) of this subsection are valid unless one of the following conditions is satisfied:

a. ~~the~~ The Division determines that a license of shorter duration should be issued when the applicant holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States. In no event shall a license of limited duration expire later than the expiration of the authorization for the applicant's legal presence in the United States.

b. The Division determines that a restricted drivers permit or a restricted identification card should be issued pursuant to subsection (t) of this section. In no event shall a restricted drivers permit or a restricted identification card expire later than one year after the date of issuance."

SECTION 9.(c) G.S. 20-7(i) reads as rewritten:

"(i) Fees. – The fee for a regular drivers ~~license~~ license, restricted drivers permit, or restricted identification card is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

<u>Class of Regular License</u>	<u>Fee for Each Year</u>
Class A	\$4.00
Class B	\$4.00
Class C	\$4.00

The fee for a motorcycle endorsement is one dollar and seventy-five cents (\$1.75) for each year of the period for which the endorsement is issued. The Secretary of Transportation shall set the fee for an initial one-year restricted drivers permit or for an initial one-year restricted identification card, and the fee may not be lower than the actual cost of processing the relevant application and furnishing the permit or card. The fee for a renewal of a restricted drivers permit or a restricted identification card is twenty-five dollars (\$25.00). The appropriate fee shall be paid before a person receives a regular drivers ~~license~~ license, restricted identification card, restricted drivers permit, or an endorsement."

SECTION 9.(d) G.S. 20-7 is amended by adding the following new subsections to read:

"(t) Notwithstanding the requirements of subsection (b1) of this section that an applicant present a valid social security number, the Division shall issue a restricted drivers permit or a restricted identification card under subsection (f) of this section to an applicant present in the United States who meets all of the following requirements:

- (1) The applicant is not lawfully present in the United States.
- (2) The applicant agrees to a criminal history check and that check shows that the applicant does not have a criminal history. The criminal history check shall include the taking of the applicant's fingerprints.
- (3) The applicant submits a valid birth certificate, passport from another country, or a copy of the federal W-2 or W-7 Internal Revenue Service form most recently submitted to the Internal Revenue Service by the applicant. G.S. 15A-306 shall not apply to documents presented pursuant to this subdivision.
- (4) The applicant demonstrates (i) that the applicant has been a resident of North Carolina for at least one year and (ii) that the period of residency began prior to April 1, 2013.
- (5) The applicant meets all other requirements for a drivers license, including proof of financial responsibility. For purposes of this section, the insurance

1 policy that is the basis of proof of financial responsibility shall have been
2 prepaid for a period that is at least as long as the entire period during which
3 the restricted drivers permit will be effective. This subdivision does not
4 apply to applications for a restricted identification card.

5 (u) Notwithstanding the requirements of subsection (n) of this section addressing
6 background colors and borders and in addition to the other requirements of this section, a
7 restricted drivers permit or a restricted identification card issued under subsection (t) of this
8 section shall do all of the following:

9 (1) Be printed in a vertical format that distinguishes them from the horizontal
10 format.

11 (2) Bear an identifying number for the license holder assigned by the Division,
12 the first character of which shall be a letter that is only assigned to restricted
13 drivers permit holders and restricted identification cards.

14 (3) Bear a distinguishing mark or other designation on the face of the permit or
15 identification card clearly denoting the limited duration of the permit or
16 identification card and clearly distinguishing it from other forms of licenses
17 of limited duration and identification cards of limited duration.

18 (4) Bear the permit or identification card holder's thumbprint in a manner that is
19 electronically readable by properly equipped law enforcement officers and
20 agencies.

21 (5) Bear a clearly legible statement that the permit or identification card (i) is
22 not valid as a means of demonstrating eligibility for voter registration or for
23 public benefits, (ii) does not legitimize the holder's presence in the United
24 States or the State of North Carolina, and (iii) is not valid for any other
25 purpose.

26 (v) Wherever the laws of this State refer to a "drivers license," the term shall also be
27 construed to refer to a restricted drivers permit, except when the law being construed confers a
28 benefit, privilege, or right for which lawful presence is a prerequisite.

29 (w) A State agency or official shall not use any information submitted as part of the
30 application process for a restricted drivers permit or a restricted identification card to seek the
31 removal from the United States of the applicant or for any purpose other than the issuance of
32 the restricted drivers permit or restricted identification card. However, this section does not
33 prohibit the use of the information in the prosecution of crimes that (i) are committed by the
34 applicant after the issuance of the permit or card or (ii) are revealed by a criminal history check
35 undertaken pursuant to subsection (t) of this section."

36 **SECTION 9.(e)** G.S. 20-15 reads as rewritten:

37 **"§ 20-15. Authority of Division to cancel license or endorsement.**

38 (a) The Division ~~shall have authority~~ is authorized to cancel any driver's license upon
39 determining any of the following:

40 (1) The licensee was not entitled to the issuance of the license under this
41 Chapter.

42 (2) The licensee failed to give the required or correct information on the license
43 application or committed fraud in making the application.

44 (3) The licensee is no longer authorized under federal law to be legally present
45 in the United States, States, except that the Division shall not cancel a
46 restricted drivers permit pursuant to this subdivision.

47 (a1) The Division shall cancel and revoke the restricted drivers permit of a person who is
48 convicted of violating G.S. 20-313.

49 (b) Upon such cancellation, the licensee must surrender the license so cancelled to the
50 Division.

1 (c) Any person whose license is canceled under this section for failure to give the
2 required or correct information, or for committing fraud, in an application for a commercial
3 drivers license ~~shall be~~ is prohibited from reapplying for a commercial drivers license for a
4 period of 60 days from the date of cancellation.

5 (d) The Division ~~shall have authority~~ is authorized to revoke an H endorsement of a
6 commercial drivers license holder if the person with the endorsement is determined by the
7 federal Transportation Security Administration to constitute a security threat, as specified in 49
8 C.F.R. § 1572.5(d)(4)."

9 **SECTION 9.(f)** Article 13 of Chapter 20 of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 20-309.3. No refund of insurance policy premiums for holders of restricted drivers**
12 **permits.**

13 When an insurer receives a request to refund any funds to an insured as a result of the
14 cancellation of a liability insurance policy on a motor vehicle, the insurer shall first inquire with
15 the Division of Motor Vehicles as to whether the insured currently has a valid restricted drivers
16 permit and shall refuse to refund any funds if the Division of Motor Vehicles confirms that the
17 person has a valid restricted drivers permit. The Division shall promptly respond to any
18 inquiries made pursuant to this section."

19
20 **PART X. AUTHORIZE IMPOUNDMENT AND SALE OF VEHICLES FOR DRIVING**
21 **WHILE LICENSE REVOKED, DRIVING WITHOUT A LICENSE, AND DRIVING**
22 **WHILE FAILING TO MAINTAIN FINANCIAL RESPONSIBILITY**

23 **SECTION 10.** Article 2 of Chapter 20 of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 20-28.10. Seizure, impoundment, forfeiture of motor vehicles for certain other offenses**
26 **under this Chapter.**

27 (a) Authority. – A vehicle driven by a person who commits any of the following
28 offenses shall be subject to seizure, impoundment, and forfeiture:

29 (1) A violation of G.S. 20-313.

30 (2) Driving without a license under G.S. 20-7 or driving without a restricted
31 drivers permit under G.S. 20-7, unless the person possesses an expired
32 drivers license or restricted drivers permit.

33 (b) Exceptions. – If any of the following conditions are satisfied, a vehicle shall not
34 become subject to an order of forfeiture under this section:

35 (1) The underlying violation is a violation of G.S. 20-313 and the defendant
36 tenders proof of financial responsibility that satisfies the requirements of
37 G.S. 20-7(c1) to the judge, regardless of whether proof of financial
38 responsibility was obtained prior to or subsequent to the violation of
39 subsection (a) of this section.

40 (2) The underlying violation is driving without a license under G.S. 20-7 or
41 driving without a restricted drivers permit under G.S. 20-7 and the defendant
42 presents the judge with the defendant's valid drivers license or restricted
43 drivers permit.

44 (c) Governing Laws and Procedures. – The laws and procedures governing the seizure,
45 impoundment, and forfeiture of vehicles under this section shall be the same as those set forth
46 in G.S. 20-28.2 through G.S. 20-28.9. Wherever those statutes refer to a particular underlying
47 offense, they shall, for purposes of this section, be construed to refer to the applicable violation
48 of subsection (a) of this section. Furthermore, for purposes of this section, an innocent owner
49 shall be a person who did not know and had no reason to know that the defendant was engaging
50 in a violation of subsection (a) of this section."

1 **PART XI. EFFECTIVE DATE AND SEVERABILITY CLAUSE**

2 **SECTION 11.(a)** Sections 2, 3, 4, 5, and 10 of this act become effective December
3 1, 2013, and apply to offenses committed on or after that date. Sections 7 and 9 of this act
4 become effective October 1, 2013. Except as otherwise provided, the remainder of this act is
5 effective when it becomes law.

6 **SECTION 11.(b)** The provisions of this act are severable. If any part of this act is
7 declared invalid or unconstitutional, such declaration shall not affect the remainder. If any
8 particular interpretation or application of the provisions of this act is declared invalid or
9 unconstitutional, such declaration shall not affect other interpretations or applications.