

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 764
HOUSE BILL 533

AN ACT TO CLASSIFY MINOR TRAFFIC OFFENSES AS INFRACTIONS AND
TO PROVIDE A PROCEDURE FOR THE DISPOSITION OF SUCH
INFRACTIONS BY THE COURTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new section, G.S. 14-3.1, to read as follows:

"§ 14-3.1. Infraction defined; sanctions.—(a) An infraction is a noncriminal violation of law not punishable by imprisonment. Unless otherwise provided by law, the sanction for a person found responsible for an infraction is a penalty of not more than one hundred dollars (\$100.00). The proceeds of penalties for infractions are payable to the county in which the infraction occurred for the use of the public schools.

(b) The procedure for disposition of infractions is as provided in Article 66 of Chapter 15A of the General Statutes."

Sec. 2. G.S. 14-4 is amended by designating the present section as subsection (a) and amending the redesignated subsection (a) by inserting at the beginning of that subsection the phrase "Except as provided in subsection (b),"; that section is further amended by adding a new subsection (b) to read as follows:

"(b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00)."

Sec. 3. Chapter 15A of the General Statutes is amended by adding a new Article 66 to read as follows:

"Article 66.

"Procedure for Hearing and Disposition of Infractions.

"§ 15A-1111. General procedure for disposition of infractions.—The procedure for the disposition of an infraction, as defined in G.S. 14-3.1, is as provided in this Article. If a question of procedure is not governed by this Article, the procedures applicable to the conduct of pretrial and trial proceedings for misdemeanors in district court are applicable unless the procedure is clearly inapplicable to the hearing of an infraction.

"§ 15A-1112. Venue.—Venue for the conduct of infraction hearings lies in any county where any act or omission constituting part of the alleged infraction occurred.

"§ 15A-1113. Prehearing procedure.—(a) Process. A law enforcement officer may issue a citation for an infraction in accordance with the provisions of G.S. 15A-302. A judicial official may issue a summons for an infraction in accordance with the provisions of G.S. 15A-303.

(b) Detention of person charged. A law enforcement officer who has probable cause to believe a person has committed an infraction may detain the person for a reasonable period in order to issue and serve him a citation.

(c) Appearance bond may be required. A person charged with an infraction may not be required to post an appearance bond if:

- (1) he is licensed to drive by a state that subscribes to the nonresident violator compact as defined in Article 1B of Chapter 20 of the General Statutes and the infraction charged is subject to the provisions of that compact; or
- (2) he is a resident of North Carolina.

Any other person charged with an infraction may be required to post a bond to secure his appearance and a charging officer may require such a person charged to accompany him to a judicial official's office to allow the official to determine if a bond is necessary to secure the person's court appearance, and if so, what kind of bond is to be used. If the judicial official finds that the person is unable to post a secured bond, he must allow the person to be released on execution of an unsecured bond. The provisions of Article 26 of this Chapter relating to issuance and forfeiture of bail bonds are applicable to bonds required pursuant to this subsection.

(d) Territorial jurisdiction. A law enforcement officer's territorial jurisdiction to charge a person with an infraction is the same as his jurisdiction to arrest specified in G.S. 15A-402.

(e) Use of same process for two offenses. A person may be charged with a criminal offense and an infraction in the same pleading.

"§ 15A-1114. Hearing procedure for infractions.—(a) Jurisdiction. Jurisdiction for the adjudication and disposition of infractions is as specified in G.S. 7A-253 and G.S. 7A-271(d).

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

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

(d) Pleas. A person charged with an infraction may admit or deny responsibility for the infraction. The plea must be made by the person charged in open court, unless he submits a written waiver of appearance which is approved by the presiding judge, or, if authorized by G.S. 7A-146, he waives his right to a hearing and admits responsibility for the infraction in writing and pays the specified penalty and costs.

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

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

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

"§ 15A-1115. Review of disposition by superior court.—(a) Appeal of district court decision. A person who denies responsibility and is found responsible for an infraction in the district court, within 10 days of the hearing, may appeal the decision to the criminal division of the superior court for a hearing de novo. Upon appeal, either party, upon demand in the manner required by G.S. 1A-1, Rule 38, is entitled to have the issue of responsibility decided by a jury. The State must prove beyond a reasonable doubt that the person charged is responsible for the infraction unless the person admits responsibility. Unless otherwise provided by law, the procedures applicable to misdemeanors disposed of in the superior court apply to those infraction hearings. In the superior court, a prosecutor must represent the State. Appeal from the judgment in the superior court is as provided for other criminal actions in superior court, and the Attorney General must represent the State in an appeal of such actions.

(b) Review of infractions originally disposed of in superior court. If the superior court disposes of an infraction pursuant to its jurisdiction in G.S. 7A-271(d), appeal from that judgment is as provided for criminal actions in the superior court.

"§ 15A-1116. Enforcement of sanctions.—(a) Use of contempt or fine collection procedures; notification of DMV. If the person does not comply with a sanction ordered by the court, the court may proceed in accordance with Chapter 5A of the General Statutes. If the person fails to pay a penalty, the court may proceed in accordance with Article 84 of this Chapter. If the infraction is a motor vehicle infraction and the person does not pay the applicable penalty and costs within 30 days of the date specified in the court's judgment, the court must notify the Division of Motor Vehicles of the failure to comply.

(b) No order for arrest. If a person served with a citation for an infraction fails to appear to answer the charge, the court may issue a summons to secure the person's appearance, but an order for arrest may not be used in such cases.

"§ 15A-1117. Court to report failures to appear.—The court must report to the Division of Motor Vehicles the name of any person charged with a motor vehicle offense who fails to appear for a scheduled hearing, unless within 20 days after the scheduled hearing, the person either appears in court to answer the charge or disposes of the charge pursuant to the procedure authorized in G.S. 7A-146.

"§ 15A-1118. Costs.—Costs assessed for an infraction are as specified in G.S. 7A-304."

Sec. 4. G.S. 15A-302 is amended by rewriting subsection (a) to read:

"(a) Definition. A citation is a directive, issued by a law enforcement officer or other person authorized by statute, that a person appear in court and answer a misdemeanor or infraction charge or charges."

That section is further amended by adding in subsection (b) after the word "misdemeanor" the words "or infraction". That section is further amended in subsection (e) by inserting after the word "crime" in the first sentence the words "or infraction". That section is further amended in subsection (f) by inserting at the beginning of that

subsection the words and punctuation "If the offense is a misdemeanor, a" and by deleting the word "A".

Sec. 5. G.S. 15A-303 is amended by adding the words "or infraction" after the word "crime" in the first sentence of subsection (a). That section is further amended in subsection (b) by adding in the caption and in each of the two sentences after the word "crime" the words "or infraction". That section is further amended by adding, at the beginning of subsection (e)(1), the words and punctuation "If the offense charged is a criminal offense, a" and by deleting the word "A". That section is further amended by adding, at the beginning of subsection (e)(2), the words and punctuation "If the offense charged is a criminal offense, an" and by deleting the word "An".

Sec. 6. G.S. 15A-1361 is rewritten to read as follows:

"§ 15A-1361. Authorized fines and penalties.—A person who has been convicted of a criminal offense may be ordered to pay a fine as provided by law. A person who has been found responsible for an infraction may be ordered to pay a penalty as provided by law. Unless the context clearly requires otherwise, references in this Article to fines also include penalties."

Sec. 7. G.S. 7A-61 is amended by inserting in the first sentence between the words "actions" and "requiring" the words "and infractions".

Sec. 8. G.S. 7A-146(8) is rewritten to read as follows:

"(8) Promulgating the schedule of alcohol, traffic, hunting, fishing, and boating offenses adopted pursuant to G.S. 7A-148(a) for which magistrates and clerks of court may accept written appearances, waivers of hearing or trial, and pleas of guilty or admissions of responsibility and establishing a schedule of fines or penalties therefor;"

Sec. 9. G.S. 7A-148(a) is amended by deleting the words "waivers of trial and pleas of guilty and establish a schedule of offenses therefor," and inserting in their place the words "waivers of trial or hearing and pleas of guilty or admissions of responsibility, and establish a schedule of penalties or fines therefor,".

Sec. 10. G.S. 7A-180(4) is rewritten to read as follows:

"(4) Has the power to accept written appearances, waivers of trial or hearing and pleas of guilty or admissions of responsibility to certain alcohol, traffic, hunting, fishing, and boating offenses in accordance with a schedule of offenses promulgated by the Conference of Chief District Judges pursuant to G.S. 7A-148, and in such cases, to enter judgment and collect the fine or penalty and costs;"

Sec. 11. G.S. 7A-191 is amended by rewriting the first sentence to read as follows: "All trials on the merits and all hearings on infractions conducted pursuant to Article 66 of Chapter 15A shall be conducted in open court and so far as convenient in a regular courtroom."

Sec. 12. G.S. 7A-196 is amended to add a new subsection (c) to read as follows:

"(c) In adjudicatory hearings for infractions, there shall be no right to trial by jury in the district court."

Sec. 13. G.S. 7A-198(e) is amended by deleting the period at the end of the subsection and inserting in its place the following: "or in hearings to adjudicate and dispose of infractions in the district court."

Sec. 14. Article 20 of Chapter 7A of the General Statutes is amended by adding a new section, G.S. 7A-253, to read as follows:

"§ 7A-253. **Infractions.**—Except as provided in G.S. 7A-271(d), original, exclusive jurisdiction for the adjudication and disposition of infractions lies in the district court division."

Sec. 15. G.S. 7A-271 is amended by adding a new subsection (d) to read as follows:

"(d) The criminal jurisdiction of the superior court includes the jurisdiction to dispose of infractions only in the following circumstances:

- (1) If the infraction is a lesser included violation of a criminal action properly before the court, the court must submit the infraction for the jury's consideration in factually appropriate cases.
- (2) If the infraction is a lesser included violation of a criminal action properly before the court, or if it is a related charge, the court may accept admissions of responsibility for the infraction. A proper pleading for the criminal action is sufficient to support a finding of responsibility for the lesser included infraction."

Sec. 16. G.S. 7A-273 is amended by inserting after the word "actions" in the first line the words "or infractions"; that section is further amended by rewriting subdivision (2) to read as follows:

"(2) In misdemeanor or infraction cases involving alcohol, traffic, hunting, fishing, and boating offenses, to accept written appearances, waivers of trial or hearing and pleas of guilty or admissions of responsibility, in accordance with the schedule of offenses and fines or penalties promulgated by the Conference of Chief District Judges pursuant to G.S. 7A-148, and in such cases, to enter judgment and collect the fines or penalties and costs;"

That section is further amended by adding between the word "in" and the word "criminal" in the caption the words "infractions or".

Sec. 17. G.S. 7A-304 is amended by adding a new subsection (e) to read as follows:

"(e) Unless otherwise provided by law, the costs assessed pursuant to this section for criminal actions disposed of in the district court are also applicable to infractions disposed of in the district court. The costs assessed in superior court for criminal actions appealed from district court to superior court are also applicable to infractions appealed to superior court. If an infraction is disposed of in the superior court pursuant to G.S. 7A-271(d), costs applicable to the original charge are applicable to the infraction."

Sec. 18. G.S. 20-24(c) is amended by rewriting the first sentence to read as follows: "For the purpose of this Article, the term conviction shall mean a final conviction of a criminal offense or a determination that a person is responsible for an infraction."

Sec. 19. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section, G.S. 20-24.1, to read as follows:

"§ 20-24.1. Revocation for failure to appear or comply with sanctions in offenses.–

(a) The Division must revoke the driver's license of a person upon receipt of notice from a court that the person was charged with a motor vehicle offense and he:

- (1) failed to appear, after being notified to do so, when the case was called for a trial or hearing; or
- (2) failed to pay a fine, penalty, or court costs ordered by the court.

Revocation orders entered under the authority of this section are effective on the sixtieth day after the order is mailed or personally delivered to the person.

(b) A license revoked under this section remains revoked until the person whose license has been revoked:

- (1) appears to answer the charge; or
- (2) demonstrates to the court that he is not the person charged with the infraction; or
- (3) pays the penalty ordered by the court; or
- (4) demonstrates to the court that his failure to pay the penalty was not willful and that he is making a good faith effort to pay or that the penalty should be remitted.

Upon receipt of notice from the court that the person has satisfied the conditions of this subsection applicable to his case, the Division must restore the person's license as provided in subsection (c). In addition, if the person whose license is revoked is not a resident of this State, the Division may notify the driver licensing agency in the person's state of residence that the person's license to drive in this State has been revoked.

(c) If the person satisfies the conditions of subsection (b) that are applicable to his case before the effective date of the revocation order, the revocation order must be rescinded and the person does not have to pay a restoration fee. For all other revocation orders issued pursuant to this section, the person must pay the restoration fee required by G.S. 20-7(o) and satisfy any other applicable requirements of this Article before he may be relicensed.

(d) To facilitate the prompt return of licenses and to prevent unjustified charges of driving while license revoked, the clerk of court, upon request, must give the person a copy of the notice it sends to the Division to indicate that the person has complied with the conditions of subsection (b) applicable to his case. If the person complies with the condition before the effective date of the revocation, the notice must indicate that the person is eligible to drive if he is otherwise validly licensed."

Sec. 20. G.S. 20-176 is rewritten to read as follows:

"§ 20-176. Penalty for misdemeanor or infraction.–(a) Violation of a provision of Part 9, 10, 10A, or 11 of this Article is an infraction unless the violation is specifically declared by law to be a misdemeanor or felony. Violation of the remaining Parts of this Article is a misdemeanor unless the violation is specifically declared by law to be an infraction or a felony.

(b) Unless a specific penalty is otherwise provided by law, a person found responsible for an infraction contained in this Article may be ordered to pay a penalty of not more than one hundred dollars (\$100.00).

(c) Unless a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained in this Article may be imprisoned for not more than 60 days or fined not more than one hundred dollars (\$100.00), or both such fine and imprisonment. A punishment is specific for purposes of this subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a judge can impose.

(d) For purposes of determining whether a violation of an offense contained in this Chapter constitutes negligence per se, criminal offenses and infractions shall be treated identically."

Sec. 21. G.S. 20-79(a) is amended by adding between the figure (\$1,000) and the period in the subsection the words "and may be imprisoned for not more than 60 days, or both such fine and imprisonment".

Sec. 22. G.S. 20-108 is amended by inserting between the words "or" and "imprisonment" the words "up to six months".

Sec. 23. G.S. 20-183.8 is amended by rewriting subsection (c) of that section to read as follows:

"(c) Except for the unauthorized reproduction of an inspection sticker, violation of any provision of this Article is an infraction which carries a penalty of not more than fifty dollars (\$50.00). The unauthorized reproduction of an inspection sticker is a forgery under G.S. 14-119."

That section is further amended by deleting the last sentence of subsection (d).

Sec. 24. G.S. 20-37.6 is amended by deleting from subsection (f)(1) the words "The penalty for a violation of G.S. 20-37.6(e)(1), and (2) and (3) shall be twenty-five dollars (\$25.00)" and inserting in their place the words "A violation of G.S. 20-37.6(e)(1), (2) or (3) is an infraction which carries a penalty of twenty-five dollars (\$25.00)"; that section is further amended by deleting from subsection (f)(2) the words "The penalty for violation of G.S. 20-37.6(e)(4) shall be fifty dollars (\$50.00)" and by inserting in their place the words "A violation of G.S. 20-37.6(e)(4) is an infraction which carries a penalty of fifty dollars (\$50.00)".

Sec. 25. G.S. 20-146(e) is amended by deleting the last sentence of that subsection.

Sec. 26. G.S. 20-135(d) is repealed.

Sec. 27. G.S. 20-137 is amended by deleting the second paragraph of that section.

Sec. 28. G.S. 20-140(d) is rewritten to read as follows:

"(d) Reckless driving as defined in subsections (a) and (b) is a misdemeanor, punishable by imprisonment not to exceed six months or a fine not to exceed five hundred dollars (\$500.00), or both a fine and imprisonment."

Sec. 29. G.S. 20-141 is amended by adding a new subsection (j1) to read as follows:

"(j1) It is a misdemeanor punishable as provided in G.S. 20-176 for a person to drive a vehicle on a highway at a speed that is more than 15 miles per hour more than the speed limit established by law for the highway where the offense occurred."

Sec. 30. G.S. 20-141(j) is amended by inserting after the word "laws" the words "is guilty of a misdemeanor and".

Sec. 31. G.S. 20-157(a) is amended by adding a new sentence at the end of the subsection to read as follows: "Violation of this subsection is a misdemeanor punishable as provided by G.S. 20-176."

Sec. 32. G.S. 20-162.1 is amended in the second paragraph by deleting the word "convicted" and inserting in its place the words "found responsible for an infraction".

Sec. 33. G.S. 20-166.1 is amended by adding a new subsection (k) to read as follows:

"(k) A violation of any provision of this section is a misdemeanor punishable as provided in G.S. 20-176."

Sec. 33.1. G.S. 20-167.1(d) is amended by adding between the words "section" and "shall" the words "is guilty of a misdemeanor and".

Sec. 34. G.S. 153A-123(b) is rewritten to read as follows:

"(b) Unless the Board of Commissioners has provided otherwise, violation of a county ordinance is a misdemeanor or infraction as provided by G.S. 14-4. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4."

Sec. 35. G.S. 160A-175(b) is rewritten to read as follows:

"(b) Unless the Council shall otherwise provide, violation of a city ordinance is a misdemeanor or infraction as provided by G.S. 14-4. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4."

Sec. 36. G.S. 116-44.4(g) is rewritten to read as follows:

"(g) Violation of an ordinance adopted under any portion of this Part is an infraction as defined in G.S. 14-3.1 and is punishable by a penalty of not more than fifty dollars (\$50.00). An ordinance may provide that certain prohibited acts shall not be infractions and in such cases the provisions of subsection (h) may be used to enforce the ordinance."

Sec. 37. G.S. 115C-46(a) is amended by deleting the second and third sentences of that subsection and inserting in lieu thereof: "A violation of a rule or regulation concerning parking on public school grounds is an infraction punishable by a penalty of not more than ten dollars (\$10.00) unless the regulation provides that the violation is not punishable as an infraction."

Sec. 38. G.S. 115D-21(b) is amended by deleting the fifth sentence of that subsection and inserting in its place the following: "Violation of any such rules, regulations, or ordinances, is an infraction punishable by a penalty of not more than one hundred dollars (\$100.00)."

Sec. 39. G.S. 143-116.7(c) is rewritten to read:

"(c) A violation of these regulations or ordinances is an infraction punishable by a penalty not to exceed fifty dollars (\$50.00)."

Sec. 40. This act shall become effective July 1, 1986, and shall apply to offenses committed on or after that date. Offenses committed before the effective date of this act shall be governed by the law in effect at the time of the offense.

In the General Assembly read three times and ratified, this the 15th day of July, 1985.