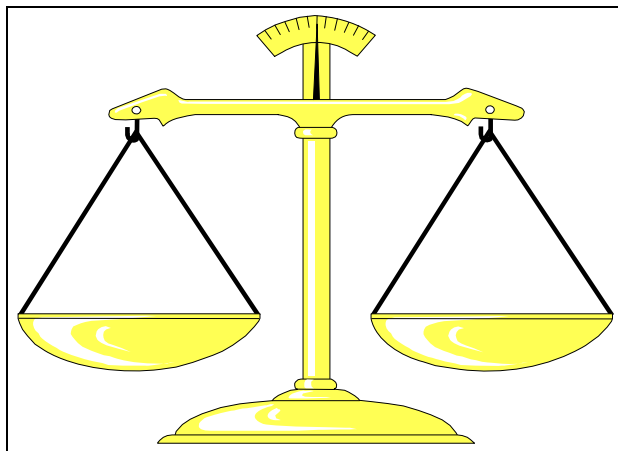


**NORTH CAROLINA
SENTENCING
AND
POLICY ADVISORY
COMMISSION**



***REPORT ON MISDEMEANOR OFFENSE
RECLASSIFICATION PURSUANT TO SESSION LAW
2010-31, SECTION 19.5***

***SUBMITTED TO THE 2011 SESSION OF THE
NORTH CAROLINA GENERAL ASSEMBLY
DECEMBER 3, 2010***

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SENTENCING AND POLICY ADVISORY COMMISSION**

**REPORT TO THE NORTH CAROLINA GENERAL ASSEMBLY
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Introduction

The North Carolina Sentencing and Policy Advisory Commission established the Misdemeanor Reclassification Subcommittee at its meeting on September 17, 2010, in response to the following mandate enacted by the General Assembly in Session Law 2010-31:

MISDEMEANOR RECLASSIFICATION REPORT

SECTION 19.5. It is the intent of the General Assembly that there be only three misdemeanor punishment levels: Class A1, Class 1, and Class 2. The North Carolina Sentencing and Policy Advisory Commission, in consultation with the Conference of District Attorneys, the Office of Indigent Defense Services, and the School of Government, shall review all Class 3 misdemeanor offenses and provide recommendations to the 2011 General Assembly for reclassifying each Class 3 misdemeanor as either an infraction or a Class 2 misdemeanor. The Commission may, in its discretion, consider other misdemeanor offenses for reclassification as infractions.

Pursuant to the mandate, the Commission charged the Subcommittee to reclassify all existing Class 3 misdemeanor offenses either as infractions or as Class 2 misdemeanors. The Subcommittee was also authorized to recommend additional misdemeanor offenses for reclassification as infractions.

The Misdemeanor Reclassification Subcommittee met on October 1 and 29, 2010. The Subcommittee began its work by receiving information on the infractions system enacted by the legislature in 1985, and the classification of misdemeanor offenses under Structured Sentencing in 1994. The Subcommittee also reviewed the Commission's development of its Misdemeanor Offense Classification Criteria in 2006, as well as the classifications the Commission proposed for the offenses in General Statutes Chapters 14, 18B, and 20, based upon these criteria.

In order to assess the potential effect of reclassification on sentencing practices, the Subcommittee received statistical data on Class 3 and Class 2 misdemeanor offenses from Fiscal Year 2008/09. This information provided a comparison of the type of dispositions imposed (community, intermediate, or active), the duration of probation supervision, and the length of active jail sentences served for misdemeanors within Class 3 and within Class 2.

Based on this information, members considered several options for approaching the reclassification of Class 3 misdemeanors. The Subcommittee recognized that the Sentencing Commission has no standard or criteria for classifying a particular act as criminal or noncriminal, because the Commission has not previously been asked to make this determination. The current

mandate is likewise silent regarding any factors to be considered. However, the Subcommittee heard from its membership in the legislature and from legislative staff that the directive arose from the General Assembly's desire to reduce system costs, particularly the costs of providing appointed counsel to indigent defendants in the large volume of low-level misdemeanor cases. The Subcommittee sought to accommodate these cost-reduction goals but without compromising public safety or the integrity of structured sentencing. Therefore, rather than adopt a fixed standard for reclassification, members weighed a variety of factors in their decision-making.

The Subcommittee began by reclassifying those Class 3 misdemeanors which have been assigned numeric offense codes by the Administrative Office of the Courts (AOC) for data collection purposes. The absence of an AOC offense code is an indication that an offense is rarely or never charged. Because offenses with AOC offense codes account for 98% of all misdemeanor convictions, the Subcommittee gave individual consideration to the coded offenses. After taking a preliminary vote for each coded offense, members received an analysis of the potential consequences of their reclassification decisions, based on sentencing data from Fiscal Year 2008/09. Excluding motor vehicle offenses in G.S. Chapter 20, for which no data was available, Commission staff calculated the total number of Class 3 misdemeanor convictions which would be converted to infractions and to Class 2 misdemeanor convictions based on the Subcommittee's votes. Staff also estimated the aggregate change in jail time that would be served by offenders convicted of offenses currently in misdemeanor Class 3, based on the recommended reclassifications. Even after subtracting all jail time currently served for offenses recommended for reclassification as infractions, it appeared that the proposed transfer of the remaining Class 3 misdemeanor offenses into Class 2 would result in a net increase in the overall amount of jail time served for these offenses. Despite concerns about these additional jail costs, the Subcommittee was unwilling to recommend the decriminalization of certain frequently-used Class 3 misdemeanors. The fact that an offense resulted in a substantial number of convictions annually – and was thus a cost driver – was sometimes found to be indicative of its importance as a crime. *See* Appendices C and D for conviction data.

For the remaining offenses without AOC offense codes, the Subcommittee established a presumption in favor of reclassification to infraction, unless a member selected a particular uncoded offense for review. The Subcommittee reviewed the selected offenses individually, recommending a classification of infraction or Class 2 misdemeanor for each offense. The remaining uncoded offenses were recommended for reclassification as infractions.

Finally, the Subcommittee chose to consider additional misdemeanor offenses outside of Class 3 for possible reclassification as infractions, again based on information that the mandate's purpose was to reduce costs. The Subcommittee identified several Class 2 misdemeanor offenses in G.S. Chapter 20 which could be properly enforced as infractions. *See* Appendix E.

The Subcommittee developed recommendations and reported them to the Sentencing Commission. The Commission discussed the recommendations and adopted them at its December 3, 2010 meeting.

Recommendations

1. The Sentencing Commission recommends reclassifying existing Class 3 misdemeanor offenses as infractions or as Class 2 misdemeanors as set out in Appendices A and B.

Commentary: In accordance with the mandate, the Commission recommended a reclassification of infraction or Class 2 misdemeanor for each Class 3 misdemeanor offense in the General Statutes. The Commission weighed a variety of factors in making its recommendations, including the seriousness of the offense; the number of annual convictions for an offense; the assignment to the offense of a numeric code by the Administrative Office of the Courts (indicating usage); the specific punishment prescribed in the offense statute, if any; the designation of the offense as waivable by the Conference of Chief District Court Judges; and the existence of other offenses to address the same conduct. Members also considered law enforcement's need to be able to arrest or detain a person charged with a particular offense – a power lost if the offense became an infraction – as well as the offense's potential usefulness in plea negotiations. For misdemeanors located in Chapters 14, 18B, and 20 of the General Statutes, the Commission also reviewed the offense classifications recommended by the Sentencing Commission in 2006. Finally, although not expressly stated in the mandate, the General Assembly's interest in reducing the costs associated with low-level misdemeanor offenses was emphasized to the Commission throughout its discussions.

2. The Sentencing Commission recommends reclassifying certain Class 2 misdemeanor offenses in General Statutes Chapter 20 as infractions as set out in Appendix E.

Commentary: The Commission identified several Class 2 misdemeanor offenses in G.S. Chapter 20 (Motor Vehicles) which are currently on the Conference of Chief District Court Judges' list of waivable offenses and which could be appropriately enforced as infractions. The Commission reviewed some additional high-volume Class 2 misdemeanors, including simple worthless check under G.S. 14-107(d)(1) and speeding more than 15 miles per hour over the posted speed limit under G.S. 20-141(j1), but chose not to recommend their reclassification.

3. The Sentencing Commission makes the following additional recommendations to the General Assembly:

A. The Sentencing Commission recommends that the General Assembly expand the range of available sanctions and increase the \$100.00 maximum monetary penalty for infractions under G.S. 14-3.1(a).

Commentary: The General Assembly created infractions in 1985 in order to address the large volume of minor motor vehicle offenses processed in the State's courts. Both the penalty and the enforcement mechanism for infractions were designed to respond to violations of motor vehicle laws. If the General Assembly wishes to transform the infraction into a general enforcement tool for a variety of minor misconduct, it should also provide courts with a broader array of sanctions options, including community service, substance abuse evaluation and outpatient treatment, and restitution. It should also increase the \$100.00 maximum monetary penalty for infractions, which is unchanged since 1985.

B. The Sentencing Commission recommends repealing the misdemeanor offense class enhancements for second and subsequent violations of the same offense.

Commentary: Several misdemeanor offenses are punished at a more serious offense class if the defendant has previously been convicted of the same offense. These offense class enhancements are inconsistent with structured sentencing, which accounts for a defendant's prior criminal convictions through the prior conviction level.

C. The Sentencing Commission recommends that the General Assembly assess the interplay between state and federal law before reclassifying a crime as an infraction, and that it preserve any misdemeanor offense upon which federal funding depends.

Commentary: Class 3 misdemeanor offenses are found in 61 chapters of the General Statutes, addressing conduct that is also regulated by federal law in such areas as interstate transportation and environmental protection. Before reclassifying any existing offense as an infraction, the General Assembly should consider whether the action will place North Carolina out of compliance with the requirements of federal law, particularly those tied to the receipt of federal funds.

D. The Sentencing Commission recommends that the General Assembly reconsider its expressed intention to eliminate misdemeanor Class 3.

Commentary: The removal of misdemeanor Class 3 from structured sentencing will unnecessarily combine offenses of differing severities within Class 2. The Commission identified a number of Class 3 misdemeanor offenses which could be appropriately enforced as infractions. The Commission also identified many Class 3 misdemeanors which should continue to be defined as crimes. In most cases, however, the Commission would not have recommended raising the classification of an existing Class 3 misdemeanor to Class 2, had the mandate not so required.

The Commission is also concerned about the potential costs of elevating some frequently-used Class 3 misdemeanor offenses to Class 2. (*See* Appendices C and D for conviction data.) Based on current sentencing practices (and excluding Chapter 20 offenses for lack of available sentencing data), the reclassification of Class 3 misdemeanor offenses to Class 2 may increase the total number of days actually served in jail for these offenses, at a concomitant increase in costs to counties. This increase has the potential to outweigh the countervailing reduction in jail costs that would result from the reclassification of the remaining Class 3 misdemeanors as infractions.

If the General Assembly seeks to reduce system costs as well as indigent defense costs, the Commission suggests that it consider reclassifying certain Class 3 misdemeanors as infractions and retaining misdemeanor Class 3 for the remaining offenses.

APPENDICES

APPENDIX A: Class 3 Misdemeanor Offenses Recommended for Reclassification as Infractions.

APPENDIX B: Class 3 Misdemeanor Offenses Recommended for Reclassification as Class 2 Misdemeanors.

APPENDIX C: Class 3 Misdemeanor Offenses with AOC Offense Codes (Excluding G.S. Chapter 20): Sentencing Episodes in Fiscal Year 2008/09.

APPENDIX D: Class 3 Misdemeanor Offenses with AOC Offense Codes (G.S. Chapter 20): Total Convictions in Calendar Year 2009.

APPENDIX E: Additional Misdemeanor Offenses Recommended for Reclassification as Infractions

APPENDIX A

Class 3 Misdemeanor Offenses Recommended for Reclassification as Infractions

General Statutes Citation	Offense Description
CHAPTER 14 – CRIMINAL LAW	
14-2.5(a)	Attempt to commit Class 2 or 3 misdemeanor.
14-2.6(b)	Solicitation of misdemeanor (not otherwise specified)
14-3(a)(3)	Unclassified misdemeanor punished by 30 days or less imprisonment/fine.
14-15	Issuing substitutes for money without authority.
14-16	Receiving or passing unauthorized substitutes for money.
14-68	Failure of owner of property to comply with orders of public authorities.
14-69	Failure of officers to investigate incendiary fires.
14-103	Obtaining certificate of registration of animals by false representation.
14-111.3	Making unneeded ambulance request in certain counties.
14-111.4	Misuse of 911 system (accessing 911 system for purpose other than an emergency communication).
14-117.2	Gasoline price advertisements (must indicate whether price is dependent on purchaser pumping fuel).
14-129	Taking, etc., of certain wild plants from land of another.
14-129.2	Unlawful to take sea oats.
14-131	Trespass on land under option by the federal government.
14-134.2	Operating motor vehicle upon utility easements after being forbidden to do so.
14-138.1	Setting fire to grassland, brushland, or woodland.
14-140.1	Certain fire to be guarded by watchman.
14-145	Unlawful posting of advertisements.
14-152	Injuring fixtures and other property of gas companies.
14-155	Unauthorized connections with telephone or telegraph.
14-157 ¹	Felling trees on telephone and electric-power wires.
14-159.8	Mutilation, etc., of "posted" signs; posting signs without consent of owner or agent.
14-159.21	Vandalism; penalties.
14-159.22	Sale of speleothems unlawful; penalties.
14-197	Using profane or indecent language on public highways; counties exempt.
14-202.11, -202.12	Restrictions as to adult establishments (first offense, permitting a building that contains an adult establishment to contain any other kind of adult establishment; permitting a building in which sexually oriented devices are sold, distributed, or exhibited to contain any adult

¹The authorized penalty for this infraction should include restitution.

	establishment; permitting any viewing booth in an adult mini motion picture theatre to be occupied by more than one person at a time).
14-226.1	Violating orders of court.
14-227	Failing to attend as witness before legislative committees.
14-286.1	Making false ambulance request.
14-288	Unlawful to pollute any bottles used for beverages.
14-321	Failing to pay minors for doing certain work.
14-355	Blacklisting employees.
14-358	Local: Violation of certain contracts between landlord and tenant.
14-359	Local: Tenant neglecting crop; landlord failing to make advances; harboring or employing delinquent tenant.
14-363.1	Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden.
14-384	Injuring notices and advertisements.
14-385	Defacing or destroying public notices and advertisements.
14-395	Commercialization of American Legion emblem; wearing by nonmembers.
14-399(c) ²	Littering (15 pounds or less, not for commercial purposes).
14-399.2	Certain plastic yoke and ring type holding devices prohibited.
14-401.7	Persons, firms, banks and corporations dealing in securities on commission taxed as a private banker.
14-401.9	Parking vehicle in private parking space without permission.
14-401.13	Failure to give right to cancel in off-premises sales.
14-401.17	Unlawful removal or destruction of electronic dog collars (first offense).
14-401.23	Unlawful manufacture, sale, delivery, or possession of Salvia divinorum (third offense). (Effective 12/1/09)
14-444 ³	Intoxicated and disruptive in public.
CHAPTER 17D – NORTH CAROLINA JUSTICE ACADEMY	
17D-4	Application of State highway and motor vehicle laws at the academy; authority of Department of Justice to regulate traffic, etc. (violation of ordinance under section).
CHAPTER 18B – REGULATION OF ALCOHOLIC BEVERAGES	
18B-302(i)	Sale to or purchase by underage persons (19- or 20-year-old purchasing, attempting to purchase, or possessing malt beverages or fortified wine; 19- or 20-year-old consuming any alcoholic beverage).
18B-401(a)	Manner of transportation (transporting an opened container of fortified wine or spirituous liquor in a vehicle's passenger area; driver consuming malt beverage or unfortified wine in vehicle passenger area).
CHAPTER 19A – PROTECTION OF ANIMALS	
19A-33	Penalty for operation of pet shop, kennel or auction without license.
CHAPTER 20 – MOTOR VEHICLES	
20-59	Unlawful for lienor who holds certificate of title not to surrender same when lien satisfied.
20-63(e)	Registration of plates furnished by the Division; etc. (neglect or refuse to clean registration plate).

² The authorized penalty for this infraction should include community service and/or restitution, in the discretion of the court.

³ The authorized penalty for this infraction should enable the court to address the responsible party's need for substance abuse evaluation and treatment. The prescribed authority should be in addition to the court's current powers under G.S. Chapter 122C. Misbehavior arising to disorderly conduct is subject to prosecution under G.S. 14-288.4.

20-63(h2)	Registration of plates furnished by the Division, etc. (failure of a former contract agent to comply with posting requirements).
20-74	Penalty for making false statement about transfer of vehicle.
20-111(3)	Violation of registration provisions (giving/lending license plate for use on motor vehicle other than that for which issued).
20-138.7	Transporting an open container of alcoholic beverage after consuming alcohol (first offense).
20-183.8(b1)	Infractions and criminal offenses for violations of inspection requirements (inspection without a license). (Effective 12/1/09).
20-215.2, -215.4	Power to regulate; rules and regulations establishing minimum standards (violation of regulations applicable to motor carriers of migratory farm workers).
20-218.2	Speed limit for nonprofit activity buses.
20-219.2	Removal of unauthorized vehicles from private lots (certain named counties) (Reduced to infraction – Effective October 1, 2010).
20-279.30, -79.31(c)	Surrender of license (willfully failing to return license).
20-327	Penalties for violating Article or regulations (Driver Training School Licensing Laws).
CHAPTER – PROBATE AND REGISTRATION	
47-30, -32.2	Plats and subdivisions; mapping requirements (violation of section -- size and other requirements for plats and maps submitted to register of deeds).
47-32, -32.2	Photographic copies of plats, etc. (violation of section -- size and other requirements for maps filed in special proceedings).
CHAPTER 53 – BANKS	
53-86	Directors, officers, etc., accepting fees, etc. (banks).
53-127	Unlawful use of terms indicating that business is bank or trust company.
53-244.112	Criminal penalties for unlicensed activity (mortgage lending). (Effective 7/31/09)
CHAPTER 58 – INSURANCE	
58-2-164(b)	Rate evasion fraud; prevention programs (false statement in application for auto insurance).
58-3-60	Publication of assets and liabilities; penalty for failure.
58-16-20	Company owned or controlled by alien government prohibited from doing business (i.e., any kind of insurance).
58-24-180(b)	Penalties (solicitation of membership to a fraternal benefit society without a license to do so; noncompliance with Article by any society or its officer, agent, or employee).
58-24-180(c)	Penalties (refusal to comply with provisions of the Article [Fraternal Benefits Societies]).
58-25-70	Unauthorized wearing of badges; etc. (of a fraternal organization or society).
58-31-60	Competitive selection of payroll education insurance products paid for by State employees (unlawful for State employee to influence Employee Insurance Subcommittee/open sealed insurance product proposal).
58-33-110	Agents signing certain blank policies (insurance).
58-43-35	Punishment for issuing fire policies contrary to law.
58-50-70	Punishment for violation (issuance of insurance policy in violation of Articles 50 through 55).
58-81-10	Penalty for noncompliance (violation of Hotels; [Fire] Safety Provisions Article).
CHAPTER 62 -- PUBLIC UTILITIES	
62-313	Refusal to permit Commission to inspect records a misdemeanor (applies to public utility or its officers or agents).
62-325(a)	Unlawful motor carrier operations (offer, receive, etc. any rebate, concession or discrimination in violation of Chapter 62 (Public Utilities); fraudulent evasion of regulations).
62-325(b)	Unlawful motor carrier operations (failure by carrier to make full and true report to Commission, or to keep proper accounts, records, and memoranda).

62-327	Gifts to members of Commission, Commission employees, or public staff (officer, agent, employee, or attorney of a public utility making gift; Commission or staff accepting gift).
62-328	Unauthorized use of Citizens Band equipment (i.e., not authorized by the FCC).
CHAPTER 63 – AERONAUTICS	
63-35	Enforcement and remedies (violating Article 4 (Model Airport Zoning Act) or any regulation, order, or ruling promulgated or made pursuant thereto).
CHAPTER 63A – NORTH CAROLINA GLOBAL TRANSPARK AUTHORITY	
63A-7	Police power (violation of Global Transpark Authority ordinance).
CHAPTER 66 – COMMERCE AND BUSINESS	
66-10(b)	Failure of dealers of scrap, salvage, or surplus to keep record of purchases of certain items misdemeanor (failure to keep record of seller's name, address, and vehicle license number).
66-16	Violation of Article a misdemeanor (Manufacture of Sale of Matches and Lighters, excluding 66-16.1, Retail sale of novelty lighters prohibited).
66-71	Violation of Article a misdemeanor; civil penalty (conducting business under an assumed name without filing a Certificate with the Secretary of State).
66-169(e)	Records to be kept (allowing access to law enforcement files containing dealer records of precious metals transactions).
66-257(c)(1)	Misdemeanor violations (failure of peddler or itinerant merchant to obtain permission from property owner to conduct business).
66-257(c)(2)	Misdemeanor violations (failure of peddler or specialty market operator to produce retail sales tax license).
66-257(c)(3)	Misdemeanor violations (failure of peddler, itinerant merchant, or specialty market operator or vender to produce identification upon request).
66-257(c)(4)	Misdemeanor violations (knowingly give false information when registering as specialty market vendor).
CHAPTER 67 – DOGS	
67-2	Permitting bitch at large (during the erotic stage of copulation).
67-3	Sheep-killing dogs to be killed (permitting sheep-killing dog to go at liberty).
67-4	Failing to kill a mad dog.
67-12	Permitting dogs to run at large at night; penalty; liability for damage.
67-16	Failure to discharge duties imposed under this Article (License Taxes on Dogs).
CHAPTER 68 – FENCES AND STOCK LAW	
68-16	Allowing livestock to run at large forbidden.
68-21	Illegally releasing or receiving impounded livestock misdemeanor.
68-22	Impounded livestock to be fed and watered (violation of statute).
68-24	Penalties for violation of this Article (redundant of 68-16, -21, and -22).
68-25	Domestic fowls running at large after notice.
68-44	Penalty for violation of G.S. 68-42 (person, firm, or corporation allowing horses, cattle, goats, sheep or hogs to run free or at large along the outer banks of this State).
CHAPTER 72 – INNS, HOTELS AND RESTAURANTS	
72-7.1	Admittance of pets to hotel rooms (bringing pet into in prohibited room; failing by innkeeper to post proper signage and to maintain at least 10% of rooms as pet-free).

72-30	Registration to be in true name; addresses; peace officers (violation of hotel/lodging house registration requirement).
CHAPTER 74 – MINES AND QUARRIES	
74-64(b)	Penalties for violation (willful violation of The Mining Act of 1971).
74-87(c)	Penalty for violations (engaging in exploration activity in willful violation of Article 8, Control of Exploration for Uranium in North Carolina).
CHAPTER 74C – PRIVATE PROTECTIVE SERVICES	
74C-8(g)	Applications for issuance of license (disclosure by Private Protective Services Board of the home address or phone number of an applicant or licensee without consent).
CHAPTER 74D – ALARM SYSTEMS	
74D-2(f)	Licenses required (disclosure by Alarms Systems Licensing Board of the home address or telephone number of an applicant or licensee without consent).
CHAPTER 74F – LOCKSMITH LICENSING ACT	
74F-3	Licenses required (performing locksmith services without a license).
CHAPTER 75 – MONOPOLIES, TRUSTS AND CONSUMER PROTECTION	
75-12	Refusal to furnish information; false swearing (refusing or willfully neglecting to provide information required under Chapter 75 (Monopolies, Trusts and Consumer Protection) when demanded).
CHAPTER 75A – BOATING AND WATER SAFETY	
75A-6.1	Navigation rules (violation of rules).
75A-13.1	Skin and scuba divers (engaging in skin or scuba diving in waters open to boating without displaying a diver's flag; operating a vessel closer than 50' to a structure with diver's flag; engaging in skin or scuba diving or display of flag in a location unreasonably obstructing legitimate navigational use of state waters).
75A-17(f)	Enforcement of Chapter (failure to slow vessel to no-wake speed when passing within 100' of law enforcement vessel with flashing blue light, or within 50' when in a narrow channel).
75A-18(a)	Penalties (violation of a provision of Article 1 (Boating Safety Act) or rule adopted by Wildlife Resources Commission under Chapter 75A (Boating and Water Safety) unless another penalty or punishment is specified. (E.g., operating a vessel on state waters which is unnumbered, lacks a valid certificate of number, or does not have the identification number displayed on each side of the bow, in violation of G.S. 75A-4).
CHAPTER 76 – NAVIGATION	
76-41	Obstructing waters of Currituck Sound (or its tributaries).
76-42	Lumbermen to remove obstructions in Albemarle Sound (as soon as practicable after ceasing use thereof).
76-43	Anchorage in range of lighthouses (unlawful to anchor at lighthouse, unless unavoidable).
76-47	Acting as pilot without license.
76-57	Rafts to exercise care in passing buoys, etc., penalty (failure to exercise due diligence when passing any buoy, beacon, or day mark in a raft).
CHAPTER 77 – RIVERS, CREEKS AND COASTAL WATERS	
77-37	Regulations for Lake Wylie and shoreline area (violation of a regulation of the Lake Wylie Marine Commission commanding or prohibiting an act).
77-57	Regulatory authority (violation of a regulation of the High Rock Lake Marine Commission commanding or prohibiting an act).
77-77	Regulatory authority (violation of a regulation of the Mountain Island Lake Marine Commission commanding or prohibiting an act).

77-87	Regulatory authority (violation of a regulation of the Lake Lure Marine Commission commanding or prohibiting an act).
77-128	Vessel owner and operator required to keep log of pumpout dates (of the marine sanitation device). (Effective 7/1/10).
CHAPTER 80 – TRADEMARK, BRANDS, ETC.	
80-22	Altering timber trademark crime (with intent to steal logs or timber).
80-23	Possession of branded logs without consent, misdemeanor.
CHAPTER 84 – ATTORNEYS-AT-LAW	
84-2	Persons disqualified (judge, justice, magistrate, DA, and other public officials disqualified from private practice of law).
CHAPTER 86A – BARBERS	
86A-20(1)	Misdemeanors (violation of 86A-1, Necessity for certificate of registration and shop or school permit, which prohibits barbering without a certificate of registration, and operating a barber school or barbershop without a permit).
86A-20(2)	Misdemeanors (obtaining or attempting to obtain a barbering certificate of registration for money other than the required fee or any other thing of value, or by fraudulent misrepresentations).
86A-20(3)	Misdemeanors (practicing or attempting to practice barbering by fraudulent misrepresentation).
86A-20(4)	Misdemeanors (willfully failing to display a barbering certificate of registration as required by 86A-16, Certificates to be displayed).
86A-20(5)	Misdemeanors (practicing or attempting to practice barbering during the period of suspension or revocation of any certificate of registration).
86A-20(6)	Misdemeanors (permitting any person under employment or control to practice as a barber unless that person holds a certificate as a registered barber or registered apprentice).
CHAPTER 87 – CONTRACTORS	
87-14	Regulations as to issue of building permits (building inspector or other authority issuing building permit without proof that applicant is licensed as a General Contractor or exempt from licensing requirements, has paid the license tax required by the State Revenue Act, and has in effect Workers' Compensation insurance).
87-61	Violations made misdemeanor; employees of licensees excepted (engaging in refrigeration contracting without a license or violating other provision of Article 5 (Refrigeration Contractors)). (Was Class 2 - Effective 12/1/09)
CHAPTER 88B – COSMETIC ART	
88B-22	Licenses required; criminal penalty (violations of Chapter 88B, Cosmetic Art, e.g., practicing without a license).
CHAPTER 89B – FORESTERS	
89B-15	Violation and penalties (violation of Chapter 89B, Foresters, e.g., posing as forester without registration).
CHAPTER 90 – MEDICINE AND ALLIED OCCUPATIONS	
90-12.1A	Limited volunteer license (holder of a limited volunteer license practicing medicine or surgery at a place other than a clinic specializing in treatment of indigent persons).
90-12.2A	Special purpose license (practicing medicine or surgery beyond the limitation of the license).
90-12.3	Medical school faculty license (practicing medicine or surgery outside the confines of the medical school or its affiliate).
90-95(a)(3), (d)(4) ⁴	Violations; penalties (possession of a Schedule VI controlled substance not exceeding one-half ounce of marijuana or one-twentieth ounce of hashish resin).
90-178.7	Enforcement (violation of G.S. 90-178.3(a) Regulation of midwifery).

⁴The authorized penalty for this infraction should include, in the discretion of the court, community service and substance abuse assessment, monitoring, or outpatient treatment.

90-210.81	Requirements as to rules and bylaws (failure of secretary or secretary-treasurer of a burial association to file required financial report with the Board of Funeral Service).
90-634(b1)	Enforcement; injunctive relief (open, operate or advertise a massage and bodywork therapy school without approval of the Board of Massage and Bodywork Therapy).
90-701(i)	Billing of anatomic pathology services (failure to disclose identify of provider and amount charged for anatomic pathology services when billing for same).
CHAPTER 95 – DEPARTMENT OF LABOR AND LABOR REGULATIONS	
95-73, -75	Collections out of State to avoid exemptions forbidden (resident creditor transferring or assigning a book account, negotiable instrument, or other claim against a resident wage earner with the intent to deprive the debtor of earnings and property exempt from application to payment of the debt under North Carolina law).
95-74, -75	Resident not to abet collection out of State (counsel, aid, or abet any violation of 95-73).
95-102, -104	Certain payments to and agreements to pay labor organizations unlawful (shipper or carrier paying a labor organization to move a motor vehicle, trailer, or container by rail (or by railroad car) when the item is also capable of being moved by highway) .
95-103, -104	Acceptance of such payments unlawful (labor organization accepting payment from a shipper or carrier as proscribed by 95-102).
CHAPTER 97 – WORKERS’ COMPENSATION ACT	
97-21	Claims unassignable and exempt from taxes and debt; agreement of employee to contribute to premium or waive right to compensation void; unlawful deduction by employer (employer deducting from employee's wages to defray workers' compensation insurance premium).
CHAPTER 103 – SUNDAYS, HOLIDAYS AND SPECIAL DAYS	
103-2	Hunting on Sunday.
CHAPTER 105 – TAXATION	
105-296(h)	Powers and duties of assessor (disclosure by county assessor or other official of information obtained from business enterprise related to the discovery or appraisal of taxable property).
105-316.6	Penalties for violations (failure to obtain or properly display a tax permit for moving a mobile home; manufacturer or retailer aiding or abetting owner to defeat permit requirement; transporting a mobile home for an owner other than a manufacturer or retailer without properly displayed tax permit).
105-369	Advertisement of tax liens on real property for failure to pay taxes (tax collector advertising a tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid).
105-449.51	Violations declared to be misdemeanors.
CHAPTER 106 – AGRICULTURE	
106-65.48	Criminal penalties; violation of law or regulations (interfere with the Commissioner of Agriculture or agent in the performance of duties under the Biological Organism Act).
106-92.14	Penalties for violations of this Article (violation or Agricultural Liming Materials and Landplaster Act or rules and regulations adopted thereunder).
106-189.2	Sale of immature apples (sale, offer for sale, or shipment of apples not meeting the requirements for apple grade standards adopted by the Board of Agriculture).
106-196	Violation of Article or regulations a misdemeanor (Article 17, Marketing and Branding Farm Products).
106-245.24	Penalties for violations; enjoining violations; venue (Article 25B, North Carolina Egg Law).
106-255	Violation of Article a misdemeanor; punishment (Article 26, Inspection of Ice Cream Plants, Creameries, and Cheese Factories).

106-277.24	Penalty for violations (Article 31, North Carolina Seed Law).
106-310	Burial of hogs dying natural death required (failure to bury at a depth of at least two feet within 12 hours of death any hog suffering a natural death).
106-404	Animals affected with glanders to be killed (owner refusing to destroy animal upon discovery of glanders or farcy).
106-418.14	Penalties (first offense, conducting business of a livestock dealer without a license issued by the Department of Agriculture and Consumer Services).
106-423.1	Criminal penalties; violation of laws or regulations (attempting to prevent inspection of premises for plant pests or otherwise interfering with the Commissioner of Agriculture's duties under Article 36 (Plant Pests); violation of a provision of Article 36 or regulation adopted by the Board of Agriculture).
106-454	Warehouse proprietor, etc., to render bill of charges; penalty (first offense, making or accepting any charge or fee other than tobacco warehouse's charge to seller for weighing and handling of tobacco, auction fees, and commission for sale).
106-455	Tobacco purchasers to be paid for by cash or check to order (warehouse proprietor's use of any method of payment for tobacco sold in warehouse other than cash or check in seller's name).
106-461, -464	Nested, shingled or overhung tobacco (sell or offer for sale on a leaf tobacco warehouse floor any pile or piles of tobacco that are nested, shingled, or overhung).
106-462, -464	Sale under name other than that of true owner prohibited (sell or offer for sale in the name of anyone other than its true owner any leaf tobacco on a leaf tobacco warehouse floor).
106-463, -464	Allowance for weight of baskets and trucks (permit or allow the basket and truck used in weighing tobacco for sale to vary by more than two pounds from the standard or uniform weight of such basket and truck).
106-514	Unlawful entry on grounds a misdemeanor (entry onto fairgrounds of an agricultural or horticultural society after expulsion; breaking and entry of enclosed fairgrounds; entry of enclosed fairgrounds by climbing over, under or through the enclosing structure; entry through gates of enclosed fairgrounds without permission).
106-515	Assisting unlawful entry on grounds a misdemeanor (assisting entry onto grounds of a fair association in a manner avoiding an admission charge).
106-516, -517, -518	Unlicensed vending, etc., near fairs a misdemeanor.
106-644(a)	Penalties (attempting to prevent inspection of bee hives; interfering with duties of the Commissioner of Agriculture under Article 55 (Bee and Honey Act of 1977); violating any provision of Article 55 or regulation adopted by the Board of Agriculture).
106-764	Violation (of the Aquaculture Development Act or any rule adopted hereunder by the Board of Agriculture).
CHAPTER 113 – CONSERVATION AND DEVELOPMENT	
113-25	Notice to Department before beginning business of manufacturing products from mineral resources of State (violation of this section by manufacturer or producer).
113-35	State timber may be sold by Department; forest nurseries; control over parks, operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules (violation of Department of Environment and Natural Resources rules governing the public use of State forests, parks, lakes, game refuges, and public shooting grounds under its charge; violation of the DENR rules for public use of lands and waters under its charge and for the public facilities and conveniences authorized by this section).
113-58	Misdemeanor to destroy posted forestry notice (posted by order of the Secretary of Environment and Natural Resources).
113-60.29	Penalties (any violation of Article 4C, Regulation of Open Fires).
113-136(j)	Enforcement authority of inspectors and protectors; refusal to obey or allow inspection by inspectors and protectors (refusing to stop in obedience to the directions of a Marine Fisheries Inspector or Wildlife Protector).

113-207	Taking shellfish from certain areas forbidden; penalty (taking shellfish within 150 feet of a publicly owned pier beneath which the Division of Marine Fisheries has deposited clutch material).
113-294(f)	Specific violations (unlawfully taking, possessing, transporting, or purchasing beaver, or violating any beaver-protection rule of the Wildlife Resources Commission).
113-298	Unlawful use of facilities for disabled sportsman (unqualified person using facilities or participating in activities for disabled sportsmen).
113-300.3(c)	Penalties for violations of Article; repeated offenses (taking a wild animal or bird declared to be a pest by poison or pesticide without observing the restrictions imposed by the Commissioner of Agriculture, Structural Pest Control Committee, Pesticide Board, or Wildlife Resources Commission).
113-315.34(c)	Jurisdiction of the Authority; application of Chapter 20; appointment and authority of special police (violating a the rule concerning traffic or parking on property of the Seafood Industrial Park Authority).
CHAPTER 113A – POLLUTION CONTROL AND ENVIRONMENT	
113A-42(b)	Violations (any provision of Article 4, Natural and Scenic Rivers System, or rule or order of the Secretary of Environment and Natural Resources).
113A-195(f)	Collection of assessment (unauthorized disclosure by a State official or employee of information obtained in a production report of any primary forest product processor).
CHAPTER 115B – TUITION AND FEE WAIVERS	
115B-6	Misrepresentation of eligibility (misrepresenting eligibility for tuition benefits under Chapter 115B, Tuition and Fee Waivers; aiding and abetting).
CHAPTER 115C – ELEMENTARY AND SECONDARY EDUCATION	
115C-45(b)	Judicial functions of board (witness failing to appear before a local board of education to testify in any manner under investigation).
115C-379	Method of enforcement (school official's failure to carry out instructions of State Board of Education concerning compulsory attendance).
115C-525(c)	Fire prevention (failing to perform statutory duties regarding fire safety and prevention in schools).
115C-534(c)	Duty to insure property (local school administrative unit failing to insure school buildings and equipment against fire, lightning, etc.)
CHAPTER 115D – COMMUNITY COLLEGES	
115D-96	Operating school without license or bond made misdemeanor (opening a proprietary business, technical, or trade school or a correspondence school without obtaining a license and executing a bond and/or paying assessments into the Student Protection Fund).
CHAPTER 116 – HIGHER EDUCATION	
116-274(b)	General powers (violating rules for vehicular and pedestrian traffic adopted by an airport authority).
CHAPTER 121 – ARCHIVES AND HISTORY	
121-4(9)	Powers and Duties of the Department of Cultural Resources (violation of Historical Commission regulations on the public's use of properties under its charge).
121-5	Public records and archives (removing a public record from the office where it is usually kept, or altering, mutilating, or destroying same).
CHAPTER 122C – MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE ACT OF 1985	
122C-28	Penalties (operating a licensable facility without a license)
122C-52	Right to confidentiality (disclosing to an unauthorized person any confidential information obtained in attending or treating a client in a facility for the care, treatment, habilitation, or rehabilitation of the mentally ill, developmentally disabled, or substance abusers).
CHAPTER 125 – LIBRARIES	
125-11	Failure to return books (or other material withdrawn from the Library within 30 days of receiving an overdue notice from the State

	Librarian with a copy of this statute attached).
CHAPTER 130A – PUBLIC HEALTH	
130A-25(d)	Misdemeanor (violating Article 9, Part 7 (Management of Certain Products That Contain Mercury) or 130A-309.10(m) (knowing disposal of mercury-containing fluorescent light or thermostat in an unlined landfill)). (<i>Effective 7/1/11</i>).
CHAPTER 131D – INSPECTION AND LICENSING OF FACILITIES	
131D-2.5(b)	License and registration fees (failing to register an adult care multiunit housing with services program with the Department of Health and Human Services) (<i>Effective 1/1/10</i>).
131D-2.6	Legal action by Department (establishing, conducting, managing, or operating an adult care home without a license). (<i>Effective 10/1/09</i>).
131D-10.7	Penalties (establishing or providing foster care or receiving and placing children in residential child care facilities, family foster homes, or adoptive homes without a license).
CHAPTER 131E – HEALTH CARE FACILITIES AND SERVICES	
131E-80(d)	Inspections (officer, administrator, employee of the Department of Health and Human Services willfully disclosing confidential or privileged information from a hospital inspection).
131E-81(a)	Penalties (establishing, conducting, managing, or operating an unlicensed hospital).
131E-81(b)	Penalties (violating any rule adopted by the North Carolina Medical Care Commission under Article 5, Part 2 (Hospital Licensure)).
131E-109(a)	Penalties (establishing, conducting, managing, or operating an unlicensed nursing home).
131E-109(d)	Penalties (violating any rule adopted by the North Carolina Medical Care Commission under Article 6, Part 1 (Nursing Home Licensure Act)).
1.31E-151	Penalties (owning or operating an ambulatory surgical facility without a license).
131E-154.8	Confidentiality (DHHS employee disclosing confidential or privileged information obtained during a nursing pool inspection).
131E-155.1	Ambulance Provider License required (operating as an EMS Provider without a license).
1.31E-207	Confidentiality (DHHS employee disclosing confidential or privileged information obtained during a hospice inspection).
CHAPTER 132 – PUBLIC RECORDS	
132-3	Destruction of records regulated (removal, alteration, defacing, mutilating, or destroying a public record).
CHAPTER 133 – PUBLIC WORKS	
133-4	Violation of Chapter made misdemeanor (violating any provision of Chapter 133, Public Works; e.g., provider of design services on a public works project specifying materials or equipment manufactured, sold, or distributed by a business in which the person has a financial interest).
CHAPTER 136 – TRANSPORTATION	
136-18.4	Provision and marking of "pull-off" areas (driver of a slow-moving vehicle failing to use a designated pull-off area, thereby impeding faster-moving traffic).
136-20(e)	Elimination or safeguarding of grade crossings and inadequate underpasses or overpasses (railroad company failing to comply with a Secretary of Transportation order to construct an underpass or overpass or to install safety devices at grade crossings).
136-32.2	Placing blinding, deceptive or distracting lights unlawful (tending to blind and hampering the vision of a motorist on a public highway; involving red, green, or amber lights resembling traffic signal lights or traffic control lights; or causing a motorist on a public highway to believe that a vehicle, obstacle, device, or barricade is impeding his lane of travel).
136-91	Placing glass, etc., or injurious obstructions in road (<i>i.e.</i> , any highway or public vehicular area).
136-94	Gates projecting over rights-of-way forbidden.
136-102	Billboard obstructing view at entrance to school, church or public institution on public highway (constructing or maintaining outside city

	limits a billboard larger than 6 sq. ft. within 200 ft. of where a walk or drive from a school, church, or public institution located along a highway enters the highway).
136-194	Cattle guards and private crossings; failure to erect and maintain a misdemeanor (railroad corporation failing to erect and maintain cattle guards and crossings as required).
CHAPTER 143 – STATE DEPARTMENTS, INSTITUTIONS, AND COMMISSIONS	
143-138(h)	North Carolina State Building Code (violating any provision of Chapter 143, Article 9 (Building Code) or the North Carolina State Building Code, other than the occupancy limits set by either; violating occupancy limits set pursuant to the North Carolina State Building Code).
143-153	Keeping swine near State institutions; penalty (keeping swine within one quarter of a mile of administration building of a state educational or charitable institution, on petition of a majority of voters living within the protected radius).
CHAPTER 143B – EXECUTIVE ORGANIZATION ACT OF 1973	
143B-461(c)	Jurisdiction of the Authority; application of Chapter 20; appointment and authority of special police (violating any rule, regulation, or ordinance of the State Ports Authority regarding the streets, alleys, driveways, and parking areas on Authority property, as well as the safety and welfare of persons using the property).
CHAPTER 146 – STATE LANDS	
146-13	Erection of piers on State lakes restricted (erecting structure without a permit from the Department of Administration).
CHAPTER 156 – DRAINAGE	
156-19	Obstructing canal or ditch dug under agreement (by servient or lower owner without consent of the higher owners and without providing other drainage for the higher lands).
156-24	Obstruction drain cut by consent (stopping or obstructing water in a ditch or canal having been cut through land with the owner's consent without providing interested parties a reasonable time to comply with the mode of proceedings for the drainage of lowlands).
156-25	Protection of canals, ditches, and natural drains (failing to return to prior condition any ditch, canal, or natural drainway on any farm after felling a tree in it; stopping up or filling in such ditch, canal, or drainway without written consent of the landowner and those damaged thereby, or without cleaning out and returning to prior condition upon demand).
156-32	Petition filed; board appointed; refusal to serve misdemeanor (refusing to serve as a commissioner for the drainage of a creek swamp, or branch upon being duly summoned by the county surveyor).
CHAPTER 159 – LOCAL GOVERNMENT FINANCE	
159-181	Enforcement of Chapter (finance officer, governing board member, or officer or employee of any local government or public authority (1) approving a claim or bill knowing it to be invalid, (2) uttering any written statement or document required by Chapter).
CHAPTER 160A – CITIES AND TOWNS	
160A-308	Regulation of dune buggies (violating a municipal ordinance regulating, restricting, or prohibiting the use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or other power-driven vehicle on the foreshore, beach strand, and the barrier dune system).
160A-439	Ordinance authorized as to repair, closing, and demolition of nonresidential buildings or structures; order of public officer (occupying or knowingly allowing occupancy of any non-residential building or structure after the public officer has posted a placard at the main entrance designating the building as unfit for any use).
CHAPTER 168 – PERSONS WITH DISABILITIES	
168-4.5	Penalty (disguising an animal as a service animal or service animal in training; depriving a person with a disability or training a service animal any rights or privileges, or charging any fee for the use of a service animal).

APPENDIX B

Class 3 Misdemeanor Offenses Recommended for Reclassification as Class 2 Misdemeanors

General Statutes Citation	Offense Description
CHAPTER 7B – JUVENILE CODE	
7B-311(c)	Central registry; responsible individuals list (public official releasing information from central registry of child abuse, neglect, dependency, and fatality cases or from responsible individuals list; authorized recipient releasing information to unauthorized person; unauthorized person accessing or attempting to access central registry or responsible individuals list).
CHAPTER 14 – CRIMINAL LAW	
14-2.4(b)	Conspiracy to commit Class 2 or 3 misdemeanor
14-4(a) ¹	Violation of local ordinances misdemeanor (any ordinance of a county, city, town, or metro sewage district other than ordinances regulating the operation or parking of vehicles).
14-72.1(a) and (e)	Concealment of merchandise in mercantile establishments (first offense).
14-72.1(d) and (e)	Concealment of merchandise in mercantile establishments (changing price tags, first offense).
14-72.3	Removal of shopping cart from shopping premises.
14-118.5	Theft of cable television service.
14-159	Injuring buildings or fences; taking possession of house without consent.
14-159.13 ²	Second degree trespass.
14-226.3(c)	Interference with electronic monitoring devices (person convicted of Class 2 or 3 misdemeanor solicits another). <i>(Effective 12/1/09)</i> .
14-275.1	Disorderly conduct at bus or railroad station or airport.
14-276.1	Impersonation of firemen or emergency medical services personnel.
14-280.1	Trespassing on railroad right-of-way.
14-281.1	Throwing, dropping, etc., objects at sporting events.
14-288.12 ³	Powers of municipalities to enact ordinances to deal with states of emergency.
14-288.13 ³	Powers of counties to enact ordinances to deal with states of emergency.
14-288.14 ³	Power of chairman of board of county commissioners to extend emergency restrictions imposed in municipality.

¹ Local ordinances govern a variety of behaviors, some of which are of sufficient seriousness that a violation should be deemed a criminal offense (e.g., discharge of a firearm within city limits). However, the General Assembly should consider excluding less serious subject matter from the Class 2 misdemeanor offense in G.S. 14-4(a) and classifying violations of these ordinances as infractions under G.S. 14-4(b).

² The General Assembly should reconcile any reclassification of second-degree trespass with the classification of first-degree trespass, which is currently a Class 2 misdemeanor under G.S. 14-159.12.

³ Local ordinances govern a variety of behaviors, some of which are of sufficient seriousness that a violation should be deemed a criminal offense (e.g., discharge of a firearm within city limits). However, the General Assembly should consider excluding less serious subject matter from the Class 2 misdemeanor offense in this section.

14-317	Permitting minors to enter barrooms or billiard rooms.
14-382	Pollution of water on lands used for dairy purposes.
14-399(d)	Littering (over 15 pounds up to 500 pounds, not for commercial purposes).
14-458	Computer trespass; penalty (violation of section).
14-460	Riding on train unlawfully.
CHAPTER 19A – PROTECTION OF ANIMALS	
19A-35	Penalty for failure to adequately care for animals; disposition of animals.
19A-36	Penalty for violation of Article by dog warden.
CHAPTER 20 – MOTOR VEHICLES	
20-37.12, -37.21	Commercial drivers license required.
20-77(d)	Transfer by operation of law; sale under mechanic's or storage lien; unclaimed vehicles (failure to report unclaimed vehicle).
20-115.1(i)	Limitations on tandem trailers and semitrailers on certain North Carolina highways (driver of vehicle with a semitrailer less than 50 feet violating subsections (a) or (b) of this section).
20-138.2A	Operating a commercial vehicle after consuming alcohol (first offense).
20-138.2B	Operating a school bus, school activity bus, or child care vehicle after consuming alcohol (first offense).
20-167.1	Transportation of spent nuclear fuel (violation of section).
20-218	Standard qualifications for school bus drivers; speed limit for school buses and school activity buses (violation of section).
20-390	Refusal to permit Department of Crime Control and Public Safety to inspect records made misdemeanor.
20-396(a)	Unlawful motor carrier operations (carrier seeking to evade or defeat regulations).
20-396(b)	Unlawful motor carrier operations (carrier failing or refusing to report or keep records as required by Article 17 (Motor Carrier Safety Regulation)).
CHAPTER 62 – PUBLIC UTILITIES	
62-319 ⁴	Riding on a train unlawfully; venue.
CHAPTER 66 – COMMERCE AND BUSINESS	
66-27.5	House trailers to have two doors (dealer's sale of non-conforming house trailer).
CHAPTER 67 – DOGS	
67-4.2	Precautions against attacks by dangerous dogs (leaving unattended, permitting to go beyond owner's property, failing to provide written notice of transfer).
CHAPTER 75A – BOATS AND WATER SAFETY	
75A-13.3(c3)	Personal watercraft (livery's failure to provide basic safety instruction to operator of leased personal watercraft). <i>(Effective 5/1/10)</i> .
CHAPTER 110 – CHILD WELFARE	
110-20.1	Exhibition of certain children prohibited (exhibiting mentally ill, mentally retarded, mentally ill, or physically deformed child under 18; failing by custodian to restrain child's participation in exhibition; procuring or arranging exhibition).
CHAPTER 113 – CONSERVATION AND DEVELOPMENT	
113-135(a)(1)	General penalties for violating Subchapter or rules; increased penalty for prior convictions; interpretive provisions (first offense, violating Chapter 113, Subchapter IV, Conservation of Marine and Estuarine and Wildlife Resources (Articles 12 through 26), unless otherwise specified, or violating any rule adopted hereunder by the Marine Fisheries Commission or the Wildlife Resources Commission).

⁴ This offense is duplicative of G.S. 14-460, Riding on train unlawfully.

113-294(d)	Specific violations (unlawfully taking, possessing, or transporting deer).
CHAPTER 115C – ELEMENTARY AND SECONDARY EDUCATION	
115C-288(g)	Powers and duties of principal (principal failing to report serious assault on school property to local law enforcement)
115C-321(c)	Confidential information in personnel files; access to information (public official or employee permitting access to information in a personnel file of a local board of education).
115C-321(d)	Confidential information in personnel files; access to information (unauthorized person examining, removing, or copying any portion of a local board of education personnel file).
CHAPTER 122C – MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE ACT OF 1985	
122C-17	State/Local Consumer Advocate; confidentiality (MH/DD/SA Consumer Advocate disclosing confidential or privileged information obtained pursuant to G.S. 122C-15, or disclosing the name of anyone who furnishes information to the Consumer Advocate, without authorization by the affected individual) (Effective date contingent upon funds being appropriated by the 2005 General Assembly).
122C-25(b)	Inspections; confidentiality (DHHS Secretary or employee disclosing (1) confidential or privileged information obtained in inspecting a licensable facility for the mentally ill, developmentally disabled, and substance abusers, or (2) the name of a person providing information concerning a licensable facility)
122C-66(b)	Protection from abuse and exploitation (employee failing to report abuse of, or accidental injury to, a client at a MH/DD/SA facility; employee or volunteer threatening or harassing an employee for making a report).
122C-158(g)	Privacy of personnel records (permitting unauthorized access to the personnel file of an employee of an area mental health, developmental disabilities, and substance abuse authority)
122C-158(h)	Privacy of personnel records (unauthorized examining, removing, or copying information in a personnel file of an employee of an area authority)
122C-192(b)	Review and protection of information (DHHS Secretary or employee disclosing (1) confidential or privileged information obtained for quality assurance activities regarding a patient, client, or employee of a licensable facility for the mentally ill, developmentally disabled, and substance abusers, or (2) the name of a person providing information concerning a licensable facility)
122C-406	Violations made misdemeanor (violating an ordinance or rule governing the Camp Butner Reservation adopted under Article 6, Part 1 (Camp Butner and Community of Butner)).
CHAPTER 126 – STATE PERSONNEL SYSTEM	
126-27	Penalty for permitting access to confidential file by unauthorized person (public official or employee permitting access to or custody or possession of any portion of a confidential state personnel file).
126-28	Penalty for examining, copying, etc., confidential file without authority (unauthorized person examining, removing, or copying any portion of a confidential state personnel file).
CHAPTER 131E – HEALTH CARE FACILITIES AND SERVICES	
131E-109(b)	Penalties (giving advance notice of a nursing home inspection by a person acting under the authority of DHHS).
131E-141.1	Penalties for violation (establishing, conducting, managing, or operating any home care agency without a license).
131E-257.2(g)	Privacy of employee personal records (public hospital director, trustee, officer, or employee permitting access to information in a personnel file).
131E-257.2(h)	Privacy of employee personal records (unauthorized person examining, removing, or copying any portion of a confidential public hospital personnel file).
CHAPTER 143 --- STATE DEPARTMENTS, INSTITUTIONS, AND COMMISSIONS	
143-214.4(f)	Certain cleaning agents containing phosphorus prohibited (manufacturing, selling, or distributing within State any cleaning agent

	containing phosphorus, unless authorized by the Environmental Management Commission).
143-215.17(a)	Enforcement procedures (violating any provision of Article 21, Part 2 (Regulation of Use of Water Resources).
143-215.36(a)	Enforcement procedures (violating any provision of Article 21, Water and Air Resources).
143-215.69(a)(1)	Enforcement procedures (violating any provision of Article 21, Part 7 (Water and Air Quality Reporting) or implementing rules, unless violation also violates a requirement under Title V).
143-215.98	Violations (violating any provision of Article 21A, Part 3 (Oil Terminal Facilities) or a rule adopted thereunder).
143-355(f),(i)	Powers and duties of the Department (failure of a well drilling, boring, coring or constructing business to furnish the Department of Environment and Natural Resources with requested samples of cuttings).
143-355(g),(i)	Powers and duties of the Department (failure of a well drilling, boring, coring or constructing business to report to the Department the location, size, depth, feet of casing used, method of finishing, and formation log information within 30 days of completing a well).
CHAPTER 143B – EXECUTIVE ORGANIZATION ACT OF 1973	
143B-146.15	Duty to report certain acts to law enforcement (principal failing to report serious assault on school property to local law enforcement)
CHAPTER 153A – COUNTIES	
153A-98(e)	Privacy of employee personnel records (public official or employee willfully permitting access to information in a county personnel file, except as permitted).
153A-98(f)	Privacy of employee personnel records (unauthorized person willfully examining in its official filing place, removing or copying any portion of a confidential county personnel file).
CHAPTER 160A – CITIES AND TOWNS	
160A-168(e)	Privacy of employee personnel records (public official or employee willfully permitting access to information in a city employee personnel file, except as permitted by section).
160A-168(f)	Privacy of employee personnel records (unauthorized person examining in its official place or removing or copying any confidential city personnel file).

APPENDIX C

Class 3 Misdemeanor Offenses with AOC Offense Codes (Excluding G.S. Chapter 20): Sentencing Episodes in Fiscal Year 2008/09

Offenses Recommended for Reclassification as Infractions

Recommended Offense Classification	General Statutes Citation	Offense Description	Sentencing Episodes FY 2008/09
Infraction	90-95(a)(3) and (d)(4)	Violations; penalties (possession of a Schedule VI controlled substance not exceeding one-half ounce of marijuana or one-twentieth ounce of hashish resin).	9408
Infraction	14-444	Intoxicated and disruptive in public.	2569
Infraction	18B-302(i)	Sale to or purchase by underage persons (19- or 20-year-old purchasing, attempting to purchase, or possessing malt beverages or fortified wine; 19- or 20-year-old consuming any alcoholic beverage).	1013
Infraction	14-399(c)	Littering (15 pounds or less, not for commercial purposes).	451
Infraction	18B-401(a)	Manner of transportation (transporting an opened container of fortified wine or spirituous liquor in a vehicle's passenger area; driver consuming malt beverage or unfortified wine in vehicle passenger area).	444
Infraction	75A-18(a)	Penalties (violation of a provision of Article 1 (Boating Safety Act) or rule adopted by Wildlife Resources Commission under Chapter 75A (Boating and Water Safety) unless another penalty or punishment is specified. (<i>E.g.</i> , operating a vessel on state water	118
Infraction	113-35	State timber may be sold by Department; forest nurseries; control over parks, operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules (violation of Department of Environment and Natural Resources r	55
Infraction	14-197	Using profane or indecent language on public highways; counties exempt.	34
Infraction	14-111.4	Misuse of 911system (accessing 911 system for purpose other than an emergency communication).	20
Infraction	14-138.1	Setting fire to grassland, brushland, or woodland.	12
Infraction	67-12	Permitting dogs to run at large at night; penalty; liability for damage.	11
Infraction	14-286.1	Making false ambulance request.	10
Infraction	14-140.1	Certain fire to be guarded by watchman.	8
Infraction	86A-20(1)	Misdemeanors (violation of 86A-1, Necessity for certificate of registration and shop or school permit, which prohibits barbering without a certificate of registration, and operating a barber school or barbershop without a permit).	4
Infraction	113-60.29	Penalties (any violation of Article 4C, Regulation of Open Fires).	4
Infraction	14-155	Unauthorized connections with telephone or telegraph.	1

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2008/09 Misdemeanor Statistical Report Data.

Offenses Recommended for Reclassification as Class 2 Misdemeanors

Recommended Offense Classification	General Statutes Citation	Offense Description	Sentencing Episodes FY 2008/09
Class 2 Misdemeanor	14-159.13	Second degree trespass.	5865
Class 2 Misdemeanor	14-72.1(a) and (e)	Concealment of merchandise in mercantile establishments (first offense).	3555
Class 2 Misdemeanor	113-135(a)(1)	General penalties for violating Subchapter or rules; increased penalty for prior convictions; interpretive provisions (first offense, violating Chapter 113, Subchapter IV, Conservation of Marine and Estuarine and Wildlife Resources (Articles 12 through 26	513
Class 2 Misdemeanor	14-4(a)	Violation of local ordinances misdemeanor (any ordinance of a county, city, town, or metro sewage district other than ordinances regulating the operation or parking of vehicles).	195
Class 2 Misdemeanor	14-280.1	Trespassing on railroad right-of-way.	95
Class 2 Misdemeanor	14-72.1(d) and (e)	Concealment of merchandise in mercantile establishments (changing price tags, first offense).	65
Class 2 Misdemeanor	14-275.1	Disorderly conduct at bus or railroad station or airport.	60
Class 2 Misdemeanor	14-399(d)	Littering (over 15 pounds up to 500 pounds, not for commercial purposes).	29
Class 2 Misdemeanor	14-118.5	Theft of cable television service.	28
Class 2 Misdemeanor	113-294(d)	Specific violations (unlawfully taking, possessing, or transporting deer).	28
Class 2 Misdemeanor	14-460	Riding on train unlawfully.	3
Class 2 Misdemeanor	62-319	Riding on a train unlawfully; venue.	3
Class 2 Misdemeanor	14-2.4(b)	Conspiracy to commit Class 2 or 3 misdemeanor	2
Class 2 Misdemeanor	14-458	Computer trespass; penalty (violation of section).	2
Class 2 Misdemeanor	110-20.1	Exhibition of certain children prohibited (exhibiting mentally ill, mentally retarded, mentally ill, or physically deformed child under 18; failing by custodian to restrain child's participation in exhibition; procuring or arranging exhibition).	0
Class 2 Misdemeanor	75A-13.3(c3)	Personal watercraft (livery's failure to provide basic safety instruction to operator of leased personal watercraft). <i>(Effective 5/1/10)</i> .	n/a

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2008/09 Misdemeanor Statistical Report Data.

APPENDIX D

Class 3 Misdemeanor Offenses with AOC Offense Codes (G.S. Chapter 20): Total Convictions in Calendar Year 2009

Offenses Recommended for Reclassification as Infractions

Recommended Offense Classification	General Statutes Citation	Offense Description	Total Convictions CY 2009
Infraction	20-138.7	Transporting an open container of alcoholic beverage after consuming alcohol (first offense).	976
Infraction	20-111(3)	Violation of registration provisions (giving/lending license plate for use on motor vehicle other than that for which issued).	338
Infraction	20-59	Unlawful for lienor who holds certificate of title not to surrender same when lien satisfied.	2
Infraction	20-183.8(b1)	Infractions and criminal offenses for violations of inspection requirements (inspection without a license). <i>(Effective 12/1/09)</i> .	0

Offenses Recommended for Reclassification as Class 2 Misdemeanors

Recommended Offense Classification	General Statutes Citation	Offense Description	Total Convictions CY 2009
Class 2 Misdemeanor	20-396(a)	Unlawful motor carrier operations (carrier seeking to evade or defeat regulations).	90
Class 2 Misdemeanor	20-396(b)	Unlawful motor carrier operations (carrier failing or refusing to report or keep records as required by Article 17 (Motor Carrier Safety Regulation)).	90
Class 2 Misdemeanor	20-37.12, -37.21	Commercial drivers license required.	78
Class 2 Misdemeanor	20-138.2A	Operating a commercial vehicle after consuming alcohol (first offense).	18
Class 2 Misdemeanor	20-77(d)	Transfer by operation of law; sale under mechanic's or storage lien; unclaimed vehicles (failure to report unclaimed vehicle).	15
Class 2 Misdemeanor	20-115.1(i)	Limitations on tandem trailers and semitrailers on certain North Carolina highways (driver of vehicle with a semitrailer less than 50 feet violating subsections (a) or (b) of this section).	7
Class 2 Misdemeanor	20-138.2B	Operating a school bus, school activity bus, or child care vehicle after consuming alcohol (first offense).	0
Class 2 Misdemeanor	20-218	Standard qualifications for school bus drivers; speed limit for school buses and school activity buses (violation of section).	0

SOURCE: NC Administrative Office of the Courts, Tally of Offense Codes Used as Charged or Convicted in Calendar Year 2009.

APPENDIX E

Other Misdemeanor Offenses Recommended for Reclassification as Infractions

Current Offense Classification	General Statutes Citation	Offense Description	Total Convictions CY 2009
CHAPTER 20 – MOTOR VEHICLES			
Class 2 Misdemeanor	20-7(a), -35(a)	Issuance and renewal or drivers licenses (License not in possession).	2,574
Class 2 Misdemeanor	20-7(a), -35(a)	Issuance and renewal of drivers licenses (Operating class of vehicle that driver is not authorized to operate, non-commercial).	6
Class 2 Misdemeanor	20-7(a1), -35(a)	Issuance and renewal of drivers licenses (Operating motorcycle without a license).	288
Class 2 Misdemeanor	20-7(f), -35(a)	Issuance and renewal of drivers licenses (Expired operator's license).	912
Class 2 Misdemeanor	20-7.1, -35(a)	Notice of change of address or name (Failing to notify DMV of change within 60 days).	17,955

SOURCE: NC Administrative Office of the Courts, Tally of Offense Codes Used as Charged or Convicted in Calendar Year 2009.