

NORTH CAROLINA BURGLAR AND FIRE ALARM ASSOCIATION

Final Legislative Report September 22, 2005

The 2005 Session of the North Carolina General Assembly finally adjourned on Friday, September 2nd. After saying they were not taking any more votes, the Senate returned and approved the lottery bill after some controversial maneuvering by the Leadership. Once the Senate passed the lottery, they quickly adjourned for good and forced the House to adjourn as well.

Almost 3,000 bills were filed in the House and Senate during the 2005 session. There were 1,800 bills filed in the House and 1,184 bills filed in the Senate. Of those 2,984 bills, 522 (less than 20%) were approved and will become law in the State of North Carolina. Currently, 54 of those bills are awaiting the Governor's signature; however, we do not expect any vetoes and anticipate that the Governor will sign all the bills into law. Normally, the Governor has ten (10) days to either sign a bill into law or fail to sign it, and within ten (10) days it becomes law automatically. At the end of session, the Governor is granted an extended thirty (30) day window of time to review legislation and sign it into law or veto it.

This legislative report contains summaries of bills that were passed into law this year that are of interest to your association, along with a summary of the North Carolina state budget. In the next several weeks we will also provide another report that will include bills that are eligible to be considered for next year's short session. Please keep in mind that all issues are "eligible" if the leadership of either the House or the Senate wants an issue to move forward.

Several bills that are usually approved each year were not completed during this session. The Technical Corrections Bill and the Studies Bill were not completed at the end of session as the Senate decided to adjourn before the House could complete its business. The Technical Corrections bill officially corrects minor errors in the law and clerical errors in drafting. Some provisions in the Technical Corrections Bill though were not at all technical, and included substantive changes in the law. We expect this Technical Corrections Bill to be brought up again next year with even more "technical corrections" added. The Studies Bill included a wide variety of issues, many from bills that had not moved through the legislative process. Sometimes the Studies Bill is used as a way to keep an issue alive for a legislator who cannot get his or her bill approved but can study the issue for a future session. Even though the Studies Bill was not approved, commissions and study committees can still be created by the legislative leadership.

It has been an exciting but very long session and we hope that you have not only learned about bills of interest to your association, but have learned a little about the legislative process. The more

we become involved in the process, the more we can effect the outcome of legislation and make sure that the legislators making the decisions know how the laws effect the people living in their communities. The 2006 session of the legislature will re-convene on May 9, 2006, at 12:00 noon.

If you would like a copy of any of the legislation introduced or considered by this year's General Assembly, you may receive one copy of as many bills as you are interested in, free of charge, by calling the General Assembly's Printed Bills office at 919/733-5648. They will need to know if it is a House bill or Senate bill and the bill number. (For example, Senate Bill 8). Copies are also available on the General Assembly's World Wide Web site: <http://www.ncleg.net>.

SENATE BILL 178, Amend Certain License Regulations/Plumbing/Heating Contractor. Makes a variety of technical changes regarding the licensing of Plumbing and Heating Contractor's. The examination for licensure will be conducted in two parts, which will include a business and law portion and a technical portion. Requests for examination, applications and information will be made available at no cost. An applicant who fails an examination may take the failed portion within six months and is not required to retake the portion they passed. If an applicant fails any part of the examination three times, the board may require additional education before the applicant is allowed to retake the examination or they can wait one year before retaking any portion. The law also prorates the fee for licensure if the examination is passed on or after October 1st of any year. The current licensing fee is \$100; however, the board may increase the fee up to \$150. **Effective: January 1, 2006.**

SENATE BILL 324, Revise Business Corporation Act. Makes a wide variety of revisions to the business corporation act including changes in the provisions regarding shareholders, directors and officers, bylaws, mergers, dissolution and records. **Effective: October 1, 2005.**

SENATE BILL 494, Regulate Telecommunications Services. Prohibits the North Carolina Utilities Commission from regulating broadband service and defines broadband service as "any service that includes a high-speed access capability to transmit at a rate of at least 200 kilobits per second used to provide internet access or computer processing, information storage or content, or protocol conversion." **Effective: June 23, 2005.**

SENATE BILL 532, Construction Site Theft/Aggravate Penalty. Increases the penalty for theft from a construction site to a Class I felony if the value of the goods stolen is more than \$300. A construction site is defined as a site where a permit, license, or other authorization has been issued by a state or local government for new construction or improvements to real property. **Effective: December 1, 2005.**

SENATE BILL 612, Amend Lobbying Laws. Amends the lobbying laws by increasing the information that is required to be reporting on lobbying activities and will require monthly reporting of legislative

lobbying during the sessions and quarterly reporting when the legislature is not in session. A waiting period will be established before State officers may lobby their former colleagues and registration and reporting of lobbying activities in the executive branch will also be required. **Effective: January 1, 2007.**

SENATE BILL 1048, Identity Theft Protection Act of 2005. This law is the Identity Theft Protection Act of 2005 and protects consumers from identity theft by protecting their social security numbers and requiring businesses to follow a variety of guidelines in protecting those numbers. The law also allows consumers to put a security freeze on their credit report and includes provisions regarding the destruction of personal information and records by businesses and government agencies. **Effective: December 1, 2005, with some provisions that effect business effective in 2006 and 2007.**

HOUSE BILL 99, Amend Workers' Comp. Act. This law as originally filed would have totally revised the Workers' Compensation laws. The bill received a great deal of opposition from consumer advocates and the trial attorneys. As a result of negotiations, there were some changes made in the workers' compensation laws; however, the majority of the provisions will be part of a study. The study will review coverage and benefit levels, how workers' compensation benefits interact with social security and private disability benefits, compensation for asbestosis exposure, and the manner and duration of medical benefits. The Study Committee on Workers' Compensation benefits will make its final report and recommendations to the 2007 General Assembly. **Effective: Upon the signature of the Governor.**

HOUSE BILL 248, Methamphetamine Lab Prevention Act. Creates the Methamphetamine Lab Prevention Act by putting products that contain pseudoephedrine behind the pharmacy counter to control their purchase. Pseudoephedrine is the common ingredient to make Methamphetamine and law enforcement is hoping to stem the problem by controlling its access. Sales of liquid gel caps, other liquid medicines and children's medicine would not be limited. The law requires the buyer to furnish a photo identification and sign a registry. Purchases are limited to two packages for any one purchase and three packages per month. Law enforcement is permitted to review the list of purchasers of these products. **Effective: The majority of the provisions become effective. January 15 2006, upon the signature of the Governor.**

HOUSE BILL 288, Motor Vehicle Move-Over Law Changes. Expands the "Move-Over" law to include public service vehicles which are defined as vehicles that are called to assist law enforcement officers or motorists with disabled or wrecked vehicles who are operating an amber colored flashing light. This includes incident management, assistance patrol members and tow trucks. Previously, the law provided that a motorist must move-over into the far lane of travel, if they could do so safely, if an emergency vehicle with a red or blue flashing light was on the side of the road. There will be a public information campaign regarding the mover-over law to inform motorists of their responsibilities to mover-over and to inform them of the changes in the law. **Effective: July 1, 2006.**

HOUSE BILL 392, Amend Definition of Malt Beverage in ABC Law. Increases the allowable portion of alcohol by volume in malt beverages from 6% to 15%. Any malt beverage containing more than

6% alcohol by volume must be clearly labeled indicating the alcohol content of the malt beverage. **Effective: August 13, 2005.**

HOUSE BILL 635, Public Comment At Local Board Meetings. Requires a 30-minute comment period during each regular meeting of a local board of education, county board of commissioners or municipal governing board and authorizes the boards to establish reasonable rules regarding the comment period. **Effective: July 11, 2005.**

HOUSE BILL 658, Code Officials Professionalism. Allows the Code Officials Qualification Board to establish professional development requirements for officials as a condition of the renewal or reactivation of their certificates. These professional development requirements are to assist officials in maintaining professional competence in their enforcement of the code. **Effective: June 21, 2005.**

HOUSE BILL 670, CDL/Federal Compliance. Amends the laws regarding commercial drivers licenses in order to comply with Federal law regarding restrictions on drivers licenses because of criminal convictions. The law requires a person who holds a CDL from another jurisdiction to apply for a transfer and obtain a North Carolina CDL within thirty days of becoming a North Carolina resident. The Division of Motor Vehicles is also authorized to revoke the H endorsement of a CDL holder if the person is considered a security threat by the Federal Transportation Security Administration. An employer who knowingly allows, requires, permits or otherwise authorizes a driver of a commercial motor vehicle to violate the laws governing commercial drivers licenses will be guilty of an infraction and will be subject to a civil penalty. **Effective: September 30, 2005.**

HOUSE BILL 736, Code Enforcement Official Exam Fees. Clarifies that regulatory provisions regarding plumbing, heating and fire sprinkler contractors do not apply to state and federally regulated electric generating facilities. **Effective: August 22, 2005.**

HOUSE BILL 740, Transit Drug Testing. Requires public transit operators and other employers of persons who operate commercial motor vehicles who are subject to Federal drug and alcohol testing to report to the Division of Motor Vehicles any Federally required positive drug or alcohol test result and to disqualify those persons from operating a commercial motor vehicle or other public transit vehicles until successful completion of treatment. **Effective: December 1, 2005.**

HOUSE BILL 768, 2005 Omnibus Labor Law Changes. Makes a variety of revisions to the Wage and Hour Act of North Carolina regarding withholding of wages and vacation pay plans. The changes include a provision that employees must be notified in writing at least 24 hours before any change in their wages. **Effective: October 1, 2005, upon the signature of the Governor.**

HOUSE BILL 891, Master Keys/Lock-Picking Devices Regulated. Prohibits any person from possessing a motor vehicle master key, manipulative key, or other motor vehicle lock-picking device or hot wiring device or from willfully buying, selling or transferring these devices with the intent to commit a felony, larceny or unauthorized use of a motor vehicle. A violation of this law is a Class I misdemeanor and a second violation is a Class I felony. **Effective: December 1, 2005.**

HOUSE BILL 988, Property Tax-Value of Motor Vehicles. Clarifies that if the cost approach is used for tax purposes to determine the true value of a motor vehicle, an appraiser could not include highway use taxes as a factor to determine the taxpayer's liability. **Effective: For taxes imposed for taxable years beginning on or after July 1, 2005.**

HOUSE BILL 1207, 2005 Speaker's Appointments. Each year the President Pro Tempore of the Senate and the Speaker of the House make various appointments to boards and commissions throughout the State. These appointments allow them to reward their supporters and spread their influence throughout the State. This years appointments are effective upon the signature of the Governor and are as follows:

State Building Commission. John Marvin Thompson and Stephen Criscenzo of Wake County are appointed for terms expiring on June 30, 2008.

Alarm Systems Licensing Board. Ralph Brown of Iredell County is appointed for a term expiring on June 30, 2008.

State Fire and Rescue Commission. William Winn of Gates County is appointed for a term expiring on June 30, 2007.

HOUSE BILL 1217, Notary Fee Increase. Increases the fees that may be collected by notaries from \$3 to \$4 per signature for acknowledgments, oaths, affirmations and verifications. **Effective: August 29, 2005.**

HOUSE BILL 1226, Inspection of Correctional Facilities. Provides that when a new prison is completed through a lease-purchase agreement, it is no longer subject to any county or city building codes. The Department of Insurance will be responsible for the prison's fire protection and electrical inspections. **Effective: June 21, 2005.**

HOUSE BILL 1400, School Bus Safety Act. Increases the penalty for passing a stopped school bus from a Class 2 misdemeanor to a Class 1 misdemeanor. It is a Class I felony offense if the defendant willfully strikes a person causing serious bodily injury. The law also removes a loophole by keeping the requirement that there be a plainly visible sign on the front and rear of the bus that says "School Bus," but removing the requirement that the sign be in letters of not less than eight inches in height. **Effective: September 1, 2005.**

NORTH CAROLINA BIENNIUM BUDGET 2005/2006

North Carolina drafts a budget every odd-numbered year during the long session of the General Assembly which covers a two year period. The short session, in every even-numbered year, is used to make budget adjustments as necessary depending on income and expenses for the State. The procedure is as follows: the Governor makes his proposal after receiving information from his various

departments (e.g. The Department of Commerce) regarding the spending needs and revenue expectations for each agency. This proposal is provided to either the House or Senate, who take turns making the first draft proposal.

This year the Senate began the budget process in the legislature with Senate Bill 622, and made a variety of adjustments, deletions and additions to the proposal provided by the Governor. After the Senate completed its version of the budget and approved it, the House then took the Senate budget and made its own amendments, deletions and additions. The Governor, the North Carolina House of Representatives and the North Carolina Senate each have their own priorities and ideas about how State government should work and how best to spend the State's money. Final negotiations between these three powerful branches of government took more than seven weeks before a budget was approved. Part of the reason it took so long was that many non-budgetary items were included. The prime example of this is the lottery, which was a major sticking point this year in the budget negotiations. Below we have summarized the highlights of the budgetary provisions that are of interest to your Association.

JUSTICE AND PUBLIC SAFETY

Alarm Systems Licensing Board. The Alarm Systems Licensing Board will be required to pay for the use of State facilities and services provided to the Board by the State.

SALARY AND EMPLOYEE BENEFITS

State Government Employees. One of the big issues in the budget this year was the salary increase for State employees. The final budget includes an \$850 or 2% increase for State employees, whichever is greater. Those employees making more than \$42,500 would receive a 2% increase and employees earning less than that would receive \$850. State employees also will receive 5 extra days of vacation. The budget also includes a provision that requires all State employees who work full-time to earn a minimum salary of at least \$20,112 per year.

TAXES AND INCENTIVES

Sales Tax Changes. The budget extends the half cent sales tax through July 1, 2007. Additionally, the budget moves toward compliance with the streamline sales tax provisions by adding spirituous liquor, satellite television and telecommunications, cable service, candy and voice mail to services that will be taxed at the general rate of seven percent.

Tobacco Tax. The budget includes language that will raise the cigarette tax from five cents a pack to thirty cents a pack effective September 1, 2005. The cigarette tax will then be raised again to thirty-five cents a pack effective July 1, 2006. Other tobacco products will have a one percent tax increase.

DEPARTMENT OF INSURANCE

Strengthen Requirements for Issuing Building Permits. The budget requires the North Carolina Code Officials Qualifications Board to take steps to insure that building inspectors enforce the statute that regulates the issuing of building permits.

DEPARTMENT OF TRANSPORTATION

Automated Driver License Testing Systems. The budget provides funding to the driver license section to install automated testing systems in 45 of its busiest offices and will have additional systems installed in 23 more offices by the Spring of 2005.

Department of Transportation Fee Increases. The budget increases a variety of fees for the Division of Motor Vehicles. The following fees will increase: copies for drivers licenses, operator licenses, restoration of licenses after revocation, commercial operator licenses and endorsements, registration tags for automobiles and light trucks, licenses for property hauling vehicles, international plan registration for motor carriers, highway trust funds fees for certificates of title and registration, issuance and renewal of driver licenses, and temporary license plates.

COMMUNITY COLLEGES

Workforce Development Programs. The budget provides the North Carolina Community College System with over \$2.6 million in each of the next two years to create the Customized Industry Training Program (CIT). The CIT program will offer training services and programs for assisting existing business and industry to remain productive and to remain in the State of North Carolina. A business or industry must show that they are making a capital investment, employing new technology and enhancing the skills of its workers to be eligible.

Small Business Centers. The budget provides \$1 million in funding for each of the next two years for small business centers located at each community college.

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