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Focusing on Legislative Representation

LEGISLATIVE REPORT
June 11, 2019

INTRODUCTION

BORN-ALIVE ABORTION SURVIVORS ACT

As the House and Senate negotiate the budget, only a handful of bills have been able to move through the legislative process with most still in Rules. Notably, the House did take up their veto override vote on Senate Bill 359, the “Born-Alive Abortion Survivors Act.” The Republican-controlled chambers moved to override Gov. Cooper’s veto of the controversial bill last month. The Senate successfully voted to override the Governor’s decision, but the House vote failed to reach the 60 percent majority vote needed to complete the override. The chambers, which both held Republican supermajorities last session, had overridden many of Gov. Cooper’s vetoes for the past two years with ease. With Democrats gaining seats and breaking the supermajorities last election, it is clear that Gov. Cooper’s vetoes will be much more difficult to be overridden now.

THE CRAFT BEER DISTRIBUTION AND MODERNIZATION ACT

After many years of debate over North Carolina’s self-distribution cap and franchise laws, brewers and wholesalers have also reached a compromise that will provide the craft brewers with greater opportunity to independently distribute and expand their businesses. The Craft Beer Distribution and Modernization Act also has ended Craft Freedom’s 2-year lawsuit challenging North Carolina’s self-distribution and franchise laws, which many brewers have found to be less than business-friendly as it often forces brewers to forfeit self-distribution rights and sign with a wholesaler into a nearly unbreakable contract. This legislation will raise the annual production cap from 25,000 barrels to 50,000 barrels annually without having to sign with a wholesaler, so long as their total sales volume does not exceed 100,000 barrels annually. This will also create a new, mid-level permit category of brewers who produce less than 100,000 barrels annually. The Craft Beer Distribution and Modernization Act received overwhelming bipartisan support and was signed into law last week by Governor Cooper.



NORTH CAROLINA ELECTRONIC SECURITY ASSOCIATION



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REDISTRICTING LAWSUIT

The redistricting lawsuit was shaken up this past week with new shocking evidence suggesting that North Carolina Republicans misled a federal court to prolong the usage of gerrymandered maps for legislative state districts. The Republicans told the court that they would not have enough time to draw new districts and hold public hearings in time for a special election to be held in late 2017 or early 2018. This led the federal court to decide to not call a special election, leaving the current veto-proof Republican supermajority in both chambers for an additional year. A look through the hard drives of a deceased Republican strategist, Thomas Hofeller, proved this to be untrue. The hard drives showed that at the time of the federal court hearing almost all of the proposed new boundaries had already been drawn for over 90% of the Senate and House districts.

Rep. David R. Lewis, told reporters in the wake of this news on Thursday that legislators accurately described how they drew the 2017 maps. "I really can't speak to what's in those reports," he said. "I can tell you that all of the maps that I produced and I presented to the people and to the committee were drawn on a state computer on state time in the two-week allotted time period that we were given." In earlier proceedings, lawyers for Republican leaders had argued that the cited maps could have been work Hofeller did as a paid adviser in the lawsuit or could simply have been drawn out of Hofeller's personal interest on his own time. Voting-rights advocates, the national parties, and other interested parties are sure to take particular interest in Hofeller's hard drives and whether or not these storage devices should see the light of day, as lawyers for Republican leaders have already demanded that Hofeller's hard drives be returned to his estate and copies be destroyed.

CHANGES TO 74D

HOUSE BILL 630, Protective Services/Alarm Systems Law Changes. This bill which originally only included changes to the Private Protective Services profession, was amended in the House Finance Committee to also make changes to Chapter 74D of the North Carolina General Statutes, which is the Alarm Systems Licensing Act. **These changes are supported by the North Carolina Electronic Security Association.** The bill would:

- change "alarm system" to "electronic security system" throughout the Chapter;
- remove outdated and unnecessary language;
- move certain statutory language to more appropriate locations in the Chapter;
- update the definition of electronic security system business to include wireless alarm devices and security systems, and integrated automation of a property that includes a security element. As amended, an "electronic security systems business" would be defined as any person, firm, association or corporation that does any of the following:
 - unless otherwise exempt, sells or attempts to sell an electronic security system device by engaging in any personal solicitation to advise, design, or consult on specific types and specific locations of electronic security system devices; or
 - unless otherwise exempt, installs, services, monitors, or responds to electrical, wireless or hardwired electronic or mechanical alarm signal devices and security systems, and integrated automation of a residence or business that includes a security element, burglar alarms, monitored access control, or cameras used to detect or observe burglary, breaking or entering, intrusion, shoplifting, pilferage, theft, or other unauthorized or illegal activity;
- authorize the Director of the Electronic Security Systems Licensing Board (ESS Board) to extend the time for a business to find a substitute qualifying agent by 30 days;

- define a "qualifying agent" as an individual who is a full-time employee in a management position who is licensed under this Chapter and whose name and address have been registered with the Board;
- codify additional requirements an applicant must meet to become a qualifying agent to include:
 - providing that "conviction" includes a prayer for judgment continued, adjudication withheld, or equivalent disposition;
 - requiring that the applicant has successfully completed or kept current the Certified Alarm Technician Level II course; and
 - requiring proof of how in-State activities of the licensee are to be monitored, including a business plan setting forth the type of activities to be performed in this State, such as telephone solicitation, residential and commercial installation or monitoring. The plan shall be updated promptly as activities change;
- provide that an alarm monitoring company located in another state and licensed by that state which demonstrates to the Board's satisfaction that it does not conduct any business through a personal representative present in this State but which solicits and conducts business solely through interstate communication facilities, such as telephone, earth satellite relay stations, the Internet and the United States Postal Service, upon receipt by the Board of a certificate of good standing from the state of licensure, is not required to register employees pursuant to G.S. 74D-8. Out-of-state monitoring companies not licensed in any state would have to be licensed by the Board and register employees pursuant to G.S. 74D-8;
- provide an exception to the confidentiality of background checks if needed to support the denial of an application or a disciplinary matter in a contested case;
- exempt from the provisions of this Chapter the installation or service of a locking device that records entry and exit data and does not transmit the data in real time to an on-site or off-site monitoring location, provided the installer is licensed by the North Carolina Locksmith Licensing Board;
- allow a person licensed under this Chapter to hire a consultant to troubleshoot a location or installation for a period of time not to exceed 48 hours in a one-month period if the licensee submits a report to the Board within 30 days from the date of the consultation designating the consultant as a temporary consultant;
- provide that the ESS Board may conduct investigations regarding unlicensed activity, and issue cease and desist letters (with the concurrence of the Secretary of Public Safety);
- provide that the ESS Board may deal with real property in the same manner as a private person (subject to approval of Governor and the Council of State);
- provide that the regulation of electronic security businesses is exclusive to the Board; however, any city or county may be permitted to require an electronic security business operating within its jurisdiction to register and to supply information regarding its license and may adopt an ordinance to require users of electronic security systems to obtain revocable permits when alarm usage involves automatic signal transmission to a law enforcement agency;
- expand the grounds for which the ESS Board may deny an application for registration to include:
 - conviction of a crime involving the illegal use, carrying, or possession of a firearm, felonious assault or an act of violence, felonious sexual offense, felonious larceny, or felonious fraud. For these purposes, "conviction" means and includes the entry of a plea of guilty, plea of no contest, or a verdict entered in open court by a judge

- or jury, including a prayer for judgment continued, adjudication withheld, or equivalent disposition;
 - include the following *misdemeanor convictions within 10 years of the date of the application* as prima facie evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverages; conviction of a crime involving assault or an act of violence; conviction of a crime involving unlawful breaking or entering, burglary or larceny or of any offense involving moral turpitude; *conviction of a crime involving a sexual offense*; or a history of addiction to alcohol or a narcotic drug; and
 - registration as a sex offender in this State or any other state;
- allow a licensee to employ an applicant for registration as a probationary employee for 20 consecutive days. Upon completion of the probationary period and the desire of the licensee to hire the registration applicant as a regular employee, the licensee would have to register the employee with the Board within 30 days after the probationary employment period ends, unless the Director extends the time period for good cause. Before a probationary employee engages in electronic security systems services, the employee would have to complete any training requirements, and the licensee would conduct a criminal record check on the employee, as the Board deems appropriate. The licensee would submit a list of the probationary employees to the Director on a monthly basis, which would include the name, address, Social Security number, and dates of employment of the employees; and
- increase liability insurance requirements for licensees as follows:
 - from \$50,000 to \$250,000 because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his or her agents operating in the course and scope of his or her employment;
 - subject to said limit for one person, from \$100,000 to \$500,000 because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his or her agent operating in the course and scope of his or her agency; and
 - from \$20,000 to \$100,000 because of injury to or destruction of property of others as the result of the negligent act or acts of the principal insured or his or her agents operating in the course and scope of his or her agency; and
- expand the grounds the ESS Board may suspend or revoke a license or registration to include if it is determined that the licensee or registrant has:
 - committed an unlawful breaking or entering, burglary, larceny, assault, battery, or kidnapping, sexual offense, trespassing, or fraud;
 - failed to maintain the certificate of liability *insurance* required; or
 - engaged in conduct that constitutes dereliction of duty or otherwise deceives, defrauds, or harms the public in the course of professional activities or services, *including fraudulently claiming a change in business ownership, fraudulently claiming dissolution of a competing business, fraudulently claiming to be a representative of the consumer's current service provider, misrepresentation of employer, or misrepresenting an upgrade of equipment as a sales tactic.*

The bill did not include an increase in the licensing fee as originally proposed. The bill as amended was approved by the House Finance Committee and will next be considered by the House Rules Committee.

BILL UPDATES

HOUSE BILL 391, Passenger Protection Act. The provisions of this bill were removed in the House Transportation Committee and replaced with new provisions that would:

- amend Transportation Network Company (TNC) safety requirements by requiring:
 - a TNC to specifically include in their records each driver's name and current address of drivers for one year from the date the driver terminated their relationship with the company a TNC;
 - a TNC driver to display the vehicle's license plate number in a location that is visible from the front of the vehicle;
 - a TNC driver to display consistent and distinctive signage or emblems while a TNC driver is active on the TNC digital platform or when providing a TNC service;
- raise the TNC driver statutory minimum age requirement from 19 years old to 21 years old;
- create a criminal offense for impersonating a TNC driver. Impersonating a TNC driver during the commission of a separate felony offense would be a Class H felony, and any other violation would be a Class 2 misdemeanor;
- establish an 11-member Commission to Study Transportation Network Company Passenger Safety; and
- provide \$100,000 to the UNC Board of Governors to develop and implement an awareness campaign to educate students at constituent institutions on what information a TNC must provide to help customers identify TNC drivers.

The bill as amended was approved by the House Transportation Committee and will next be considered by the House Appropriations Committee.

HOUSE BILL 553, Licensing Certain Fire Safety Equip. Work, as amended in the House Finance Committee would:

- enact a new Article 82B, Licensing and Permitting for the Installation and Servicing of Portable Fire Extinguishers and Fire Suppression Systems;
- add the following definitions:
 - alarm system contractor – A person or firm licensed under Chapter 74D of the General Statutes;
 - Commissioner – The North Carolina Commissioner of Insurance;
 - electrical contractor – A person or firm licensed under Article 4 of Chapter 87 of the General Statutes;
 - engineered special hazard fire suppression system – A fire suppression system having pipe lengths, number of fittings, number and types of nozzles, suppression agent flow rates, and nozzle pressures calculated based on appropriate standards of the National Fire Protection Association. An engineered special hazard fire suppression system may include other components, including, but not limited to, detection devices, alarm devices, and control devices as tested and approved by a nationally recognized testing laboratory, where the component's manufacturer determines the component is compatible with the fire suppression system;
 - fire sprinkler contractor – A person or firm licensed under Article 2 of Chapter 87 of the General Statutes;

- fire suppression system – A firefighting system employing a suppression agent with the purpose of controlling, suppressing, or extinguishing a fire in a specific hazard, and includes an engineered special hazard fire suppression system, an industrial fire suppression system, and a kitchen fire suppression system; and
- industrial fire suppression system – A pre-engineered automatic fire extinguishing system providing for the protection of property or equipment as described by the manufacturer other than a system covered under the definition of "kitchen fire suppression system"
- kitchen fire suppression system – A pre-engineered automatic fire extinguishing system providing for the protection of grease removal devices, hoods, duct systems, and cooking equipment.
- suppression agent – A recognized agent or water additive required to control, suppress, or extinguish a fire. This term does not include an agent where the primary extinguishing agent is water as utilized by a fire sprinkler system as defined;
- firm – A business, person, partnership, organization, association, or corporation;
- license – The document issued by the Commissioner that authorizes a firm to engage in the business of installation, inspection, repair, recharging, service, or testing of fire suppression systems or portable fire extinguishers;
- permit – The document issued by the Commissioner that authorizes a person to install, inspect, repair, recharge, service, or test fire suppression systems or portable fire extinguishers;
- plumbing contractor – A person or firm licensed under Article 2 of Chapter 87 of the General Statutes;
- portable fire extinguisher – A portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire;
- make clarifying and organizational changes to the provisions of GS 58-82B-2 concerning the Commissioner of Insurance's powers and duties;
- remove the provision requiring all fire suppression systems and portable fire extinguishers to be installed, inspected, serviced, and tested in compliance with the Article and related rules;
- make organizational and conforming changes to the remainder of the Article;
- make organizational change to separately provide for the Article's licensing and permitting requirements;
- require firms to be licensed in order to install, inspect, repair, recharge, service, or test a fire suppression system or a portable fire extinguisher required by the Commissioner's rules or state or local rules (previously specified four fire suppression systems);
- exempt the following from licensing: (1) a fire chief, fire marshal, fire inspector, or insurance company inspector with regard to the routine visual inspection of a fire suppression system or portable fire extinguisher and (2) specified contractors while performing activities governed by their respective occupational licenses, as specified (previously exempted certain inspectors from the entire Article's provisions);
- require firms to be permitted to install, inspect, repair, recharge, service, or test a fire suppression system or a portable fire extinguisher required by the Commissioner's rules or state or local rules;
- require permittees to be certified in such service of one or more systems in devices identified, and make clarifying and technical changes to the requirements for a permit;

- provide identical exemptions from permitting as provided for licensure;
- provide an exemption for employees making minor repairs or replacements, performing routine visual inspections, or recharging, servicing, or testing on property controlled by a firm or governmental entity (previously, identified the exempt activities to be installing, inspecting, recharging, repairing, servicing, or testing extinguishers or systems on the property; removes the specification that these individuals remain subject to rules and regulations adopted under the Article); and clarify that firms and governmental entities remain subject to licensure requirements;
- modify the fee schedule, now providing for separate fees for license issuance (\$375; was, \$250) and renewal (\$225; previously same as issuance), and permit issuance (\$285; was \$100) and renewal (\$175; previously same as issuance), now separated by certification type;
- require permittees to renew each certification for which the permittee is certified;
- provide for reciprocity for firms or persons rather than individuals;
- amend the provisions regarding grounds for disciplinary action against licensees or permittees, to include rendering inoperative a fire suppression system covered by the Article (rather than a pre-engineered fire suppression system); retaining a person (rather than individual) who has a direct or indirect interest that has had his or her license or permit suspended or revoked; and serving or previously serving as an officer, director, stockholder, or owner of a firm whose license has been suspended or revoked or has a direct or indirect interest in a firm whose license has been suspended or revoked (previously, listed businesses and corporations in additions to firms, and included the revocation and suspension of permits);
- require the Commissioner to notify an applicant within 30 days of denial of an application (whether for initial issuance or renewal of a license or permit) of the reasons for the denial (previously did not give a time restraint);
- specify that license and permit applicants can be denied for any reasons that are grounds for disciplinary action under the Article, and require an applicant to be notified within 120 days after receipt by the Commissioner of the applicant's written demand of the outcome of a requested review of a denial;
- allow the Commissioner to issue cease and desist orders to any person or firm (rather than individual or firm) believed to be in violation of the Article, and remove the provision that establishes any violation to be grounds for application denial;
- require the Commissioner to issue an order for a penalty within 30 days after giving written notice of the violation (was, after a reasonable period of time);
- remove the provision which makes any willful or intentional violation of the Article or any rule or order of the Commissioner a Class 1 misdemeanor;
- specify that the Article does not limit the power of the State or local governments from requiring the submission and approval of plans and specifications or to regulate the quality and character of work performed by any person, firm, or governmental entity (was, work performed by contractors) for the protection of the public health and safety; and
- direct the Department of Insurance to report to the Joint Legislative Administrative Procedure Oversight Committee no later than October 1, 2020, with information indicating how many licenses and permits have been issued since the implementation of this Article and any issues relevant to the regulation of activities under Article 82B of the General Statutes, and to make any recommendations as to whether the license or permit fees established need to be adjusted so that the continued administration of this Article is receipt-supported.

The bill as amended was approved by the House Finance Committee and will next be considered by the House Rules Committee.

LEGISLATION ENACTED

HOUSE BILL 646, ID Approval/Flex Muni One-Stop. This legislation will:

- clarify the approval process for student and employee identification cards for voting purposes to require the submission documentation satisfactory to the State Board that specified criteria been met and will not knowingly be violated with regard to student/employee identification cards issued during the approval period, including that (1) the photograph obtained (i) is a frontal image that includes the student's/employee's face and (ii) represents a clear, accurate likeness of the student/employee to whom the identification card is issued. If the photograph is one not produced by the university or college or its agents or the state or local government entity or charter school, it must certify in detail the process used to ensure the photograph is that of the student/employee to whom the identification card is issued and shall certify that the process is designed to confirm the identity of the student to whom the identification card is issued; and (2) access to the equipment for producing the identification cards is restricted through security measures;
- provide an additional window for approval of student and employee identification cards for the 2020 elections;
- require the State Board to publish sample student identification cards for each participating university and college;
- provide that an approved student identification card or employee identification card without a printed expiration date is eligible for use in any election held before January 1, 2021; and
- provide flexibility in the number of hours of early one-stop voting in odd-numbered year elections to allow county boards of elections by unanimous vote of all its members to propose a Plan for Implementation providing for sites in that county for absentee ballots to be applied for and cast in elections conducted in odd-numbered years. The proposed Plan for Implementation must specify the hours of operation for the county board of elections for an election conducted in that county for that odd-numbered year.

Effective: June 3, 2019.

SENATE BILL 310, Electric Co-Op Rural Broadband Services. This legislation will:

- authorize subsidiary business entities of Electric membership corporations (EMCs) that provide or support "high speed broadband services to one or more households, businesses, or community anchor points in an unserved area" to do both of the following: (1) finance with loans or grants from the Rural Utilities Service of the United States Department of Agriculture (USDA); and (2) compensate the EMC at less than full compensation for the use of personnel, services, equipment, or tangible and intangible property; and
- define the following terms: "anchor points" to include schools, libraries, community colleges, community centers, and other similar places; "high speed broadband services" as Internet transmission speeds of a minimum of 25 megabits per second (Mbps) downstream and 3 Mbps upstream; and "unserved area" as a location where inhabitants or businesses do not have access to high-speed broadband services.

Effective: May 30, 2019, and applies to all claims filed on or after that date.

SENATE BUDGET

The Senate budget would:

- appropriate the following funds to the North Carolina Department of Public Instruction for school safety grants:
 - Grant funding in the amount of \$6 million in recurring funds for the 2019-2020 fiscal year and \$6 million in recurring funds for the 2020-2021 fiscal year to award grants for School Resource Officers (SROs).
 - Grant funding in the amount of \$6.1 million in nonrecurring funds for the 2019-2020 fiscal year to award grants for school safety equipment.
 - Grant funding in the amount of \$4.5 million in nonrecurring funds for the 2019-2020 fiscal year to award grants for providing training to students and school personnel, including school mental health support personnel, on how to improve school safety and to respond to trauma and significant stress.
- allow a tax deduction for amounts received by a taxpayer as an economic incentive under the Job Maintenance and Capital Development Fund, the Jobs Development Investment Grant Program, and the One North Carolina Fund, effective for taxable years beginning on or after January 1, 2019.

HOUSE BILL 966, 2019 Appropriations Act. The House did not agree to the budget changes made by the Senate and a Conference Committee of House and Senate members was appointed to work out the differences between the two versions. The Conferees are:

House

Rep. Linda P. Johnson (Senior Chair)
Rep. Donny Lambeth (Senior Chair)
Rep. Jason Saine (Senior Chair)
Rep. Dean Arp (Chair)
Rep. William D. Brisson (Chair)
Rep. Josh Dobson (Chair)
Rep. John Faircloth (Chair)
Rep. Chuck McGrady (Chair)
Rep. Jimmy Dixon
Rep. Kyle Hall
Rep. Pat McElraft
Rep. Larry C. Strickland
Rep. Jon Hardister
Rep. Kelly E. Hastings
Rep. Jeffrey Elmore
Rep. John A. Fraley
Rep. D. Craig Horn
Rep. Pat B. Hurley
Rep. John Sauls
Rep. George G. Cleveland
Rep. Dennis Riddell
Rep. Gregory F. Murphy, MD
Rep. Larry W. Potts
Rep. Donna McDowell White

Senate

Sen. Harry Brown (Chair)
Sen. Kathy Harrington (Chair)
Sen. Brent Jackson (Chair)
Sen. Chuck Edwards
Sen. Rick Gunn
Sen. Andy Wells
Sen. Jim Davis
Sen. Tom McInnis
Sen. Deanna Ballard
Sen. Jerry W. Tillman
Sen. John M. Alexander, Jr.
Sen. Rick Horner
Sen. Dan Bishop
Sen. Joyce Krawiec
Sen. Danny Earl Britt, Jr.
Sen. Warren Daniel
Sen. Norman W. Sanderson
Sen. Ralph Hise
Sen. Paul Newton
Sen. Bill Rabon

Rep. Destin Hall
Rep. Brenden H. Jones
Rep. James L. Boles, Jr.
Rep. Ted Davis, Jr.
Rep. Allen McNeill
Rep. Rena W. Turner
Rep. Frank Iler
Rep. Michele D. Presnell
Rep. Phil Shepard
Rep. John A. Torbett
Rep. David R. Lewis
Rep. John R. Bell, IV
Rep. Julia C. Howard
Rep. Mitchell S. Setzer
Rep. John Szoka
Rep. Elmer Floyd
Rep. Charles Graham

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