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Short Title: Amend Rule 4/Acceptance of Service.

(Public)

Sponsors:

Referred to:

February 13, 2023

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING RULE 4 OF THE NORTH CAROLINA RULES OF CIVIL
3 PROCEDURE TO ALLOW ACCEPTANCE OF SERVICE USING AN OFFICIAL FORM,
4 TO MAKE STREET TAKEOVERS UNLAWFUL, TO MAKE VARIOUS CHANGES TO
5 COURTROOM PROCEDURES, AND TO ALLOW FOR EVEN-YEAR ELECTIONS FOR
6 CERTAIN SANITARY DISTRICT BOARDS, AND TO MAKE AN ABC TECHNICAL
7 CORRECTION.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. NEW ACKNOWLEDGMENT OF RECEIPT OF SERVICE OF PROCESS**

11 **SECTION 1.(a)** G.S. 1A-1, Rule 4(j5) of the North Carolina Rules of Civil
12 Procedure reads as rewritten:

13 "(j5) Personal jurisdiction by acceptance of service. – Any party personally, or through the
14 persons provided in Rule 4(j), may accept service of process either (i) by completing an
15 acceptance of service, such as a form for that purpose to be prescribed by the Administrative
16 Office of the Courts, or (ii) by notation of acceptance of service together with the signature of
17 the party accepting service and the date thereof on an original or copy of a summons, and such
18 acceptance-summons. Acceptance of service by either method shall have the same force and
19 effect as would exist had the process been served by delivery of copy and summons and
20 complaint to the person signing said the acceptance."

21 **SECTION 1.(b)** This section becomes effective December 1, 2023, and applies to
22 actions commenced on or after that date.

23
24 **PART II. MAKE UNAUTHORIZED STREET TAKEOVERS UNLAWFUL**

25 **SECTION 2.(a)** Article 3 of Chapter 20 of the General Statutes is amended by adding
26 a new section to read:

27 **§ 20-141.10. Street takeover.**

28 (a) The following definitions apply to this section:

29 (1) Reserved for future codification purposes.

30 (2) Burnout. – Operation of a motor vehicle where the motor vehicle is kept
31 stationary, or is in motion, while the wheels are spun, resulting in friction
32 which causes the motor vehicle's tires to heat up and emit smoke.



- 1 (3) Doughnut. – Operation of a motor vehicle where the front or rear of the motor
2 vehicle is rotated around the opposite set of wheels in a continuous motion
3 which may cause a circular skid-mark pattern of rubber on the driving surface
4 or the tires to heat up and emit smoke from friction, or both.
5 (4) Drifting. – Operation of a motor vehicle where the motor vehicle is steered so
6 that it makes a controlled skid sideways through a turn with the front wheels
7 pointed in a direction opposite to that of the turn.
8 (5) Reserved for future codification purposes.
9 (8) Street takeover. – The unauthorized taking over of a portion of highway,
10 street, or public vehicular area by blocking or impeding the regular flow of
11 traffic with a motor vehicle to perform a motor vehicle stunt, contest, or
12 exhibition.
13 (9) Stunt. – A burnout, doughnut, wheelie, drifting, or other dangerous motor
14 vehicle activity.
15 (10) Wheelie. – Operation of a motor vehicle where the motor vehicle is ridden for
16 a distance with the front wheel or wheels raised off the ground.

17 (b) It shall be unlawful for any person to operate a motor vehicle in a street takeover. Any
18 person who knowingly violates this subsection is guilty of a Class A1 misdemeanor and shall
19 pay a fine of no less than one thousand dollars (\$1,000). A subsequent violation of this subsection
20 within a 24-month period is a Class H felony, including a minimum fine equal to twice the value
21 of the vehicle involved in the offense but no less than one thousand dollars (\$1,000).

22 (c) It shall be unlawful to knowingly participate in, coordinate through social media or
23 otherwise, commit an overt act in furtherance of, or facilitate a street takeover. Any person who
24 violates this subsection is guilty of a Class A1 misdemeanor. Mere presence alone without an
25 intentional act is not sufficient to sustain a conviction under this section.

26 (e) A person who violates subsection (b) of this section and assaults a law enforcement
27 officer or knowingly and willfully threatens a law enforcement officer shall be guilty of a Class
28 H felony.

29 (f) A motor vehicle involved in a violation of subsection (b) of this section may be seized
30 in accordance with the provisions of G.S. 20-141.3(g)."

31 **SECTION 2.(b)** G.S. 20-141.3(g) reads as rewritten:

32 "(g) The following provisions apply to this section:

- 33 (1) When any officer of the law discovers that any person has operated or is
34 operating a motor vehicle willfully in ~~prearranged speed competition with~~
35 ~~another motor vehicle on a street or highway, he~~ violation of this section, the
36 officer shall seize the motor vehicle and deliver the same vehicle. When any
37 officer of the law discovers that any person has operated or is operating a
38 motor vehicle in violation of G.S. 20-141.10, the officer may seize the vehicle.
39 Any vehicle seized pursuant to this subsection shall be delivered to the sheriff
40 of the county in which such offense is committed, or the same shall be placed
41 under said sheriff's constructive possession if delivery of actual possession is
42 impractical, and the vehicle shall be held by the sheriff pending the trial of the
43 person or persons arrested for operating such motor vehicle in violation of
44 subsection (a) of this section. The sheriff shall restore the seized motor vehicle
45 to the owner upon execution by the owner of a good and valid bond, with
46 sufficient sureties, in an amount double the value of the property, which bond
47 shall be approved by said sheriff and shall be conditioned on the return of the
48 motor vehicle to the custody of the sheriff on the day of trial of the person or
49 persons accused. Upon the acquittal of the person charged ~~with operating said~~
50 ~~motor vehicle willfully in prearranged speed competition with another motor~~

1 ~~vehicle,~~ under this section or G.S. 20-141.10, the sheriff shall return the motor
2 vehicle to the owner thereof.

3 (2) Notwithstanding the provisions for sale set out above, on petition by a
4 lienholder, the court, in its discretion and upon such terms and conditions as
5 it may prescribe, may allow reclamation of the vehicle by the lienholder. The
6 lienholder shall file with the court an accounting of the proceeds of any
7 subsequent sale of the vehicle and pay into the court any proceeds received in
8 excess of the amount of the lien.

9 (3) Upon conviction of the operator of said motor vehicle of a violation of
10 subsection (a) of this section, the court shall order a sale at public auction of
11 said motor vehicle and the officer making the sale, after deducting the
12 expenses of keeping the motor vehicle, the fee for the seizure, and the costs of
13 the sale, shall pay all liens, according to their priorities, which are established,
14 by intervention or otherwise, at said hearing or in other proceeding brought
15 for said purpose, as being bona fide, and shall pay the balance of the proceeds
16 to the proper officer of the county who receives fines and forfeitures to be
17 used for the school fund of the county. All liens against a motor vehicle sold
18 under the provisions of this section shall be transferred from the motor vehicle
19 to the proceeds of its sale. If, at the time of hearing, or other proceeding in
20 which the matter is considered, the owner of the vehicle can establish to the
21 satisfaction of the court that said motor vehicle was used in prearranged speed
22 competition with another motor vehicle on a street or highway without the
23 knowledge or consent of the owner, and that the owner had no reasonable
24 grounds to believe that the motor vehicle would be used for such purpose, the
25 court shall not order a sale of the vehicle but shall restore it to the owner, and
26 the said owner shall, at his request, be entitled to a trial by jury upon such
27 issues.

28 (4) If the owner of said motor vehicle cannot be found, the taking of the same,
29 with a description thereof, shall be advertised in some newspaper published
30 in the city or county where taken, or, if there be no newspaper published in
31 such city or county, in a newspaper having circulation in the county, once a
32 week for two weeks and by handbills posted in three public places near the
33 place of seizure, and if said owner shall not appear within 10 days after the
34 last publication of the advertisement, the property shall be sold, or otherwise
35 disposed of in the manner set forth in this section.

36 (5) When any vehicle confiscated under the provisions of this section is found to
37 be specially equipped or modified from its original manufactured condition so
38 as to increase its speed, the court shall, prior to sale, order that the special
39 equipment or modification be removed and destroyed and the vehicle restored
40 to its original manufactured condition. However, if the court should find that
41 such equipment and modifications are so extensive that it would be
42 impractical to restore said vehicle to its original manufactured condition, then
43 the court may order that the vehicle be turned over to such governmental
44 agency or public official within the territorial jurisdiction of the court as the
45 court shall see fit, to be used in the performance of official duties only, and
46 not for resale, transfer, or disposition other than as junk: Provided, that nothing
47 herein contained shall affect the rights of lienholders and other claimants to
48 said vehicles as set out in this section."

49 **SECTION 2.(c)** This section becomes effective December 1, 2023, and applies to
50 offenses committed on or after that date.

PART III. MODIFY COURTROOM PROCEDURES

SECTION 3.(a) G.S. 7A-272(c) reads as rewritten:

"(c) ~~With the consent of the presiding district court judge, When the prosecutor, prosecutor and the defendant, defendant consent,~~ the district court has jurisdiction to accept a defendant's plea of guilty or no contest to a Class H or I felony ~~if~~ if one of the following criteria is met:

- (1) The defendant is charged with a felony in an information filed pursuant to G.S. 15A-644.1, the felony is pending in district court, and the defendant has not been indicted for the ~~offense; or~~ offense.
- (2) The defendant has been indicted for a criminal offense but the defendant's case is transferred from superior court to district court pursuant to G.S. 15A-1029.1.

The chief district court judge may schedule and assign sessions of court to accept pleas of guilty or no contest pursuant to this subsection, and the district attorney shall cause agreed-upon pleas to be calendared for these sessions."

SECTION 3.(b) This section becomes effective December 1, 2023, and applies to pleas accepted on or after that date.

SECTION 4.(a) G.S. 7A-271(e) reads as rewritten:

"(e) The superior court has exclusive jurisdiction over all hearings held pursuant to G.S. 15A-1345(e) where the district court had accepted a defendant's plea of guilty or no contest to a felony under the provisions of G.S. 7A-272(c), except that the district court shall have jurisdiction to hear these matters with the consent of the State and the defendant. Once the superior court has concluded a probation revocation hearing, the superior court shall proceed without remanding or sending the matter back to district court unless covered under subsection (f) of this section."

SECTION 4.(b) G.S. 15A-1341(a6) reads as rewritten:

"(a6) Compliance With Terms of Conditional Discharge. – Upon violation of a term or condition of a conditional discharge granted pursuant to this section, the court may enter an adjudication of guilt and proceed as otherwise provided. If the revocation hearing is heard in superior court, the superior court shall enter an adjudication of guilt and shall not remand the matter to district court, unless covered by G.S. 7A-271(f). Upon fulfillment of the terms and conditions of a conditional discharge granted pursuant to this section, any plea or finding of guilty previously entered shall be withdrawn and the court shall discharge the person and dismiss the proceedings against the person."

SECTION 4.(c) This section becomes effective December 1, 2023, and applies to revocation hearings held on or after that date.

PART IV. EVEN-YEAR ELECTIONS FOR CERTAIN SANITARY DISTRICT BOARDS

SECTION 5.(a) G.S. 130A-50 is amended by adding two new subsections to read:

"(f) A sanitary district board may adopt a resolution to require the election of the sanitary district board to be at the time of the election for county officers. The resolution shall be delivered to the county board of elections prior to July 1 of the odd-numbered year. If the resolution is received by the county board of elections prior to July 1 of the odd-numbered year, the current terms of office of members of that sanitary district board shall be extended by one year and the next election conducted in the following even-numbered year.

"(g) If a sanitary district board lies wholly within a county and no resident voter of the district filed a notice of candidacy in the previous election for the sanitary district board, the board of county commissioners may adopt a resolution to require the election of the sanitary district board to be at the time of the election for county officers. The resolution shall be delivered to the county board of elections prior to July 1 of the odd-numbered year. If the resolution is received by the county board of elections prior to July 1 of the odd-numbered year, the current

1 terms of office of members of that sanitary district board shall be extended by one year and the
2 next election conducted in the following even-numbered year."

3 **SECTION 5.(b)** Notwithstanding G.S. 130A-50(f), as enacted by this act, a sanitary
4 district board may deliver the resolution requiring elections to be at the time of the election for
5 county officers no later than August 1, 2023. If the resolution is received by the county board of
6 elections by August 1, 2023, the county board of elections shall cancel all notices of candidacy
7 and petitions submitted in 2023 with respect to the election of that sanitary district board and
8 conduct the next election in 2024.

9 **SECTION 5.(c)** Notwithstanding G.S. 130A-50(g), as enacted by this act, a board
10 of county commissioners may deliver the resolution requiring elections to be at the time of the
11 election for county officers no later than August 1, 2023. If the resolution is received by the
12 county board of elections by August 1, 2023, the county board of elections shall cancel all notices
13 of candidacy and petitions submitted in 2023 with respect to the election of that sanitary district
14 board and conduct the next election in 2024.

15 **SECTION 5.(d)** This Part is effective when it becomes law, and applies to elections
16 held on or after that date.

17 18 **PART V. BAR TECHNICAL CORRECTION**

19 **SECTION 6.(a)** G.S. 18B-1000(1) reads as rewritten:

20 "(1) Bar. – An establishment that is primarily engaged in the business of selling
21 alcoholic beverages for consumption on the premises. ~~A bar shall not include~~
22 ~~a brewery, winery, or distillery.~~"

23 **SECTION 6.(b)** This Part becomes effective August 1, 2023.

24 25 **PART VI. EFFECTIVE DATE**

26 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes
27 law.