Article 19.

False Pretenses and Cheats.

§ 14-100. Obtaining property by false pretenses.

(a) If any person shall knowingly and designedly by means of any kind of false pretense whatsoever, whether the false pretense is of a past or subsisting fact or of a future fulfillment or event, obtain or attempt to obtain from any person within this State any money, goods, property, services, chose in action, or other thing of value with intent to cheat or defraud any person of such money, goods, property, services, chose in action or other thing of value, such person shall be guilty of a felony: Provided, that if, on the trial of anyone indicted for such crime, it shall be proved that he obtained the property in such manner as to amount to larceny or embezzlement, the jury shall have submitted to them such other felony proved; and no person tried for such felony shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts: Provided, further, that it shall be sufficient in any indictment for obtaining or attempting to obtain any such money, goods, property, services, chose in action, or other thing of value by false pretenses to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the money, goods, property, services, chose in action or other thing of value; and upon the trial of any such indictment, it shall not be necessary to prove either an intent to defraud any particular person or that the person to whom the false pretense was made was the person defrauded, but it shall be sufficient to allege and prove that the party accused made the false pretense charged with an intent to defraud. If the value of the money, goods, property, services, chose in action, or other thing of value is one hundred thousand dollars ($100,000) or more, a violation of this section is a Class C felony. If the value of the money, goods, property, services, chose in action, or other thing of value is less than one hundred thousand dollars ($100,000), a violation of this section is a Class H felony.

(b) Evidence of nonfulfillment of a contract obligation standing alone shall not establish the essential element of intent to defraud.

(b1) In any prosecution for violation of this section, the State is not required to establish that all of the acts constituting the crime occurred in this State or within a single city, county, or local jurisdiction of this State, and it is no defense that not all of the acts constituting the crime occurred in this State or within a single city, county, or local jurisdiction of this State.

(c) For purposes of this section, "person" means person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization. (33 Hen. VIII, c. 1, ss. 1, 2; 30 Geo. II, c. 24, s. 1; 1811, c. 814, s. 2, P.R.; R.C., c. 34, s. 67; Code, s. 1025; Rev., s. 3432; C.S., s. 4277; 1975, c. 783; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1997-443, s. 19.25(l); 2019-193, s. 2(a).)

§ 14-100.1. Possession or manufacture of certain fraudulent forms of identification.

(a) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for any person to knowingly possess or manufacture a false or fraudulent form of identification as defined in this section for the purpose of deception, fraud, or other criminal conduct.

(b) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for any person to knowingly obtain a form of identification by the use of false, fictitious, or fraudulent information.

(c) Possession of a form of identification obtained in violation of subsection (b) of this section shall constitute a violation of subsection (a) of this section.

(d) For purposes of this section, a "form of identification" means any of the following or any replica thereof:

(1) An identification card containing a picture, issued by any department, agency, or subdivision of the State of North Carolina, the federal government, or any other state.
(2) A military identification card containing a picture.
(3) A passport.
(4) An alien registration card containing a picture.

(e) A violation of this section shall be punished as a Class 1 misdemeanor. (2001-461, s. 1; 2001-487, s. 42(a).)

§ 14-101. Obtaining signatures by false pretenses.

If any person, with intent to defraud or cheat another, shall designedly, by color of any false token or writing, or by any other false pretense, obtain the signature of any person to any written instrument, the false making of which would be punishable as forgery, he shall be punished as a Class H felon. (1871-2, c. 92; Code, s. 1026; Rev., s. 3433; C.S., s. 4278; 1945, c. 635; 1979, c. 760, s. 5; 1979 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1181; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-102. Obtaining property by false representation of pedigree of animals.

If any person shall, with intent to defraud or cheat, knowingly represent any animal for breeding purposes as being of greater degree of any particular strain of blood than such animal actually possesses, and by such representation obtain from any other person money or other thing of value, he shall be guilty of a Class 2 misdemeanor. (1891, c. 94, s. 2; Rev., s. 3307; C.S., s. 4279; 1993, c. 539, s. 40; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-103. Obtaining certificate of registration of animals by false representation.

If any person shall, by any false representation or pretense, with intent to defraud or cheat, obtain from any club, association, society or company for the improvement of the breed of cattle, horses, sheep, swine, fowls or other domestic animals or birds, a certificate of registration of any animal in the herd register of any such association, society or company, or a transfer of any such registration, upon conviction thereof, the person is guilty of a Class 3 misdemeanor. (1891, c. 94, s. 1; Rev. s. 3308; C.S., s. 4280; 1993, c. 539, s. 41; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-104. Obtaining advances under promise to work and pay for same.

If any person, with intent to cheat or defraud another, shall obtain any advances in money, provisions, goods, wares or merchandise of any description from any other person or corporation upon and by color of any promise or agreement that the person making the same will begin any work or labor of any description for such person or corporation from whom the advances are obtained, and the person making the promise or agreement shall willfully fail, without a lawful excuse, to commence or complete such work according to contract, he shall be guilty of a Class 2 misdemeanor. (1889, c. 444; 1891, c. 106; 1905, c. 411; Rev., s. 3431; C.S., s. 4281; 1993, c. 539, s. 42; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-105. Obtaining advances under written promise to pay therefor out of designated property.

If any person shall obtain any advances in money, provisions, goods, wares or merchandise of any description from any other person or corporation, upon any written representation that the

person making the same is the owner of any article of produce, or of any other specific chattel or personal property, which property, or the proceeds of which the owner in such representation thereby agrees to apply to the discharge of the debt so created, and the owner shall fail to apply such produce or other property, or the proceeds thereof, in accordance with such agreement, or shall dispose of the same in any other manner than is so agreed upon by the parties to the transaction, the person so offending shall be guilty of a misdemeanor, whether he shall or shall not have been the owner of any such property at the time such representation was made. Any person violating any provision of this section shall be guilty of a Class 2 misdemeanor. (1879, cc. 185, 186; Code, s. 1027; 1905, c. 104; Rev., s. 3434; C.S., s. 4282; 1969, c. 1224, s. 9; 1993, c. 539, s. 43; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-106. Obtaining property in return for worthless check, draft or order.

Every person who, with intent to cheat and defraud another, shall obtain money, credit, goods, wares or any other thing of value by means of a check, draft or order of any kind upon any bank, person, firm or corporation, not indebted to the drawer, or where he has not provided for the payment or acceptance of the same, and the same be not paid upon presentation, shall be guilty of a Class 3 misdemeanor. The giving of the aforesaid worthless check, draft, or order shall be prima facie evidence of an intent to cheat and defraud. (1907, c. 975; 1909, c. 647; C.S., s. 4283; 1993, c. 539, s. 44; 1994, Ex. Sess., c. 24, s. 14(c); 2013-360, s. 18B.14(a).)

§ 14-107. Worthless checks; multiple presentment of checks.

(a) It is unlawful for any person, firm or corporation, to draw, make, utter or issue and deliver to another, any check or draft on any bank or depository, for the payment of money or its equivalent, knowing at the time of the making, drawing, uttering, issuing and delivering the check or draft, that the maker or drawer of it:

(1) Has not sufficient funds on deposit in or credit with the bank or depository with which to pay the check or draft upon presentation, or

(2) Has previously presented the check or draft for the payment of money or its equivalent.

(b) It is unlawful for any person, firm or corporation to solicit or to aid and abet any other person, firm or corporation to draw, make, utter or issue and deliver to any person, firm or corporation, any check or draft on any bank or depository for the payment of money or its equivalent, being informed, knowing or having reasonable grounds for believing at the time of the soliciting or the aiding and abetting that the maker or the drawer of the check or draft:

(1) Has not sufficient funds on deposit in, or credit with, the bank or depository with which to pay the check or draft upon presentation, or

(2) Has previously presented the check or draft for the payment of money or its equivalent.

(c) The word "credit" as used in this section means an arrangement or understanding with the bank or depository for the payment of a check or draft.

(d) A violation of this section is a Class I felony if the amount of the check or draft is more than two thousand dollars ($2,000). If the amount of the check or draft is two thousand dollars ($2,000) or less, a violation of this section is a misdemeanor punishable as follows:

(1) Except as provided in subdivision (3) or (4) of this subsection, the person is guilty of a Class 3 misdemeanor. Provided, however, if the person has been convicted three times of violating this section, the person shall on the fourth and

all subsequent convictions (i) be punished as for a Class 1 misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

(2) Repealed by Session Laws 1999-408, s. 1, effective December 1, 1999.

(3) If the check or draft is drawn upon a nonexistent account, the person is guilty of a Class 1 misdemeanor.

(4) If the check or draft is drawn upon an account that has been closed by the drawer, or that the drawer knows to have been closed by the bank or depository, prior to time the check is drawn, the person is guilty of a Class 1 misdemeanor.

(e) In deciding to impose any sentence other than an active prison sentence, the sentencing judge shall consider and may require, in accordance with the provisions of G.S. 15A-1343, restitution to the victim for (i) the amount of the check or draft, (ii) any service charges imposed on the payee by a bank or depository for processing the dishonored check, and (iii) any processing fees imposed by the payee pursuant to G.S. 25-3-506, and each prosecuting witness (whether or not under subpoena) shall be entitled to a witness fee as provided by G.S. 7A-314 which shall be taxed as part of the cost and assessed to the defendant. (1925, c. 14; 1927, c. 62; 1929, c. 273, ss. 1, 2; 1931, cc. 63, 138; 1933, cc. 43, 64, 93, 170, 265, 362, 458; 1939, c. 346; 1949, cc. 183, 332; 1951, c. 356; 1961, c. 89; 1963, cc. 73, 547, 870; 1967, c. 49, s. 1; c. 661, s. 1; 1969, c. 157; c. 876, s. 1; cc. 909, 1014; c. 1224, s. 10; 1971, c. 243, s. 1; 1977, c. 885; 1979, c. 837; 1983, c. 741; 1991, c. 523, s. 1; 1993, c. 374, s. 2; c. 539, ss. 45, 1182; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 742, s. 11; 1999-408, s. 1; 2013-244, s. 4; 2013-360, s. 18B.14(b).)

§ 14-107.1. Prima facie evidence in worthless check cases.

(a) Unless the context otherwise requires, the following definitions apply in this section:

(1) Check Passer. – A natural person who draws, makes, utters, or issues and delivers, or causes to be delivered to another any check or draft on any bank or depository for the payment of money or its equivalent.

(2) Acceptor. – A person, firm, corporation or any authorized employee thereof accepting a check or draft from a check passer.

(3) Check Taker. – A natural person who is an acceptor, or an employee or agent of an acceptor, of a check or draft in a face-to-face transaction.

(b) In prosecutions under G.S. 14-107 the prima facie evidence provisions of subsections (d) and (e) apply if all the conditions of subdivisions (1) through (7) below are met. The prima facie evidence provisions of subsection (e) apply if only conditions (5) through (7) are met. The conditions are:

(1) The check or draft is delivered to a check taker.

(2) The name and mailing address of the check passer are written or printed on the check or draft, and the check taker or acceptor shall not be required to write or print the race or gender of the check passer on the check or draft.

(3) The check taker identifies the check passer at the time of accepting the check by means of a North Carolina driver's license, a special identification card issued pursuant to G.S. 20-37.7, or other reliable serially numbered identification card containing a photograph and mailing address of the person in question.

(4) The license or identification card number of the check passer appears on the check or draft.

(5) After dishonor of the check or draft by the bank or depository, the acceptor sends the check passer a letter by certified mail, to the address recorded on the check, identifying the check or draft, setting forth the circumstances of dishonor, and requesting rectification of any bank error or other error in connection with the transaction within 10 days.

An acceptor may advise the check passer in a letter that legal action may be taken against him if payment is not made within the prescribed time period. Such letter, however, shall be in a form which does not violate applicable provisions of Article 2 of Chapter 75.

(6) The acceptor files the affidavit described in subdivision (7) with a judicial official, as defined in G.S. 15A-101(5), before issuance of the first process or pleading in the prosecution under G.S. 14-107. The affidavit must be kept in the case file (attached to the criminal pleading in the case).

(7) The affidavit of the acceptor, sworn to before a person authorized to administer oaths, must:

a. State the facts surrounding acceptance of the check or draft. If the conditions set forth in subdivisions (1) through (5) have been met, the specific facts demonstrating observance of those conditions must be stated.

b. Indicate that at least 15 days have elapsed since the mailing of the letter required under subdivision (5) and that the check passer has failed to rectify any error that may have occurred with respect to the dishonored check or draft.

c. Have attached a copy of the letter sent to the check passer pursuant to subdivision (5).

d. Have attached the receipt, or a copy of it, from the United States Postal Service certifying the mailing of the letter described in subdivision (5).

e. Have attached the check or draft or a copy thereof, including any stamp, marking or attachment indicating the reason for dishonor.

(c) In prosecutions under G.S. 14-107, where the check or draft is delivered to the acceptor by mail, or delivered other than in person, the prima facie evidence rule in subsections (d) and (e) shall apply if all the conditions below are met. The prima facie evidence rule in subsection (e) shall apply if conditions (5) through (7) below are met. The conditions are:

(1) The check or draft is delivered to the acceptor by United States mail, or by some person or instrumentality other than a check passer.

(2) The name and mailing address of the check passer are recorded on the check or draft.

(3) The acceptor has previously identified the check passer, at the time of opening the account, establishing the course of dealing, or initiating the lease or contract, by means of a North Carolina driver's license, a special identification card issued pursuant to G.S. 20-37.7, or other reliable serially numbered identification card containing a photograph and mailing address of the person in question, and obtained the signature of the person or persons who will be making payments on the account, course of dealing, lease or contract, and such signature is retained in the account file.

(4) The acceptor compares the name, address, and signature on the check with the name, address, and signature on file in the account, course of dealing, lease, or contract, and notes that the information contained on the check corresponds with the information contained in the file, and the signature on the check appears genuine when compared to the signature in the file.

(5) After dishonor of the check or draft by the bank or depository, the acceptor sends the check passer a letter by certified mail to the address recorded on the check or draft identifying the check or draft, setting forth the circumstances of dishonor and requesting rectification of any bank error or other error in connection with the transaction within 10 days.

An acceptor may advise the check passer in a letter that legal action may be taken against him if payment is not made within the prescribed time period. Such letter, however, shall be in a form which does not violate applicable provisions of Article 2 of Chapter 75.

(6) The acceptor files the affidavits described in subdivision (7) of this subsection with a judicial official, as defined in G.S. 15A-101(5), before issuance of the first process or pleading in the prosecution under G.S. 14-107. The affidavit must be kept in the case file (attached to the criminal pleading in the case).

(7) The affidavit of the acceptor, sworn to before a person authorized to administer oaths, must:

a. State the facts surrounding acceptance of the check or draft. If the conditions set forth in subdivisions (1) through (5) have been met, the specific facts demonstrating observance of those conditions must be stated.

b. Indicate that at least 15 days have elapsed since the mailing of the letter required under subdivision (5) and that the check passer has failed to rectify any error that may have occurred with respect to the dishonored check or draft.

c. Have attached a copy of the letter sent to the check passer pursuant to subdivision (5).

d. Have attached the receipt, or a copy of it, from the United States Postal Service certifying the mailing of the letter described in subdivision (5).

e. Have attached the check or draft or a copy thereof, including any stamp, marking or attachment indicating the reason for dishonor.

(d) If the conditions of subsection (b) or (c) have been met, proof of meeting them is prima facie evidence that the person charged was in fact the identified check passer.

(e) If the bank or depository dishonoring a check or draft has returned it in the regular course of business stamped or marked or with an attachment indicating the reason for dishonor, the check or draft and any attachment may be introduced in evidence and constitute prima facie evidence of the facts of dishonor if the conditions of subdivisions (5) through (7) of subsection (b) or subdivisions (5) through (7) of subsection (c) have been met. The reason for dishonor may be indicated with terms that include, but are not limited to, the following: "insufficient funds," "no account," "account closed," "NSF," "uncollected," "unable to locate," "stale dated," "postdated," "endorsement irregular," "signature irregular," "nonnegotiable," "altered," "unable to process," "refer to maker," "duplicate presentment," "forgery," "noncompliant," or "UCD noncompliant."

The fact that the check or draft was returned dishonored may be received as evidence that the check passer had no credit with the bank or depository for payment of the check or draft.

(f) An affidavit by an employee of a bank or depository who has personal knowledge of the facts stated in the affidavit sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in a hearing or trial pursuant to a prosecution under G.S. 14-107 in the District Court Division of the General Court of Justice with respect to the facts of dishonor of the check or draft, including the existence of an account, the date the check or draft was processed, whether there were sufficient funds in an account to pay the check or draft, and other related matters. If the defendant requests that the bank or depository employee personally testify in the hearing or trial, the defendant may subpoena the employee. The defendant shall be provided a copy of the affidavit prior to trial and shall have the opportunity to subpoena the affiant for trial. (1979, c. 615, s. 1; 1985, c. 650, s. 1; 1989, c. 421; 1997-149, s. 1; 2013-244, s. 5.)

§ 14-107.2. Program for collection in worthless check cases.

(a) As used in this section, the terms "check passer" and "check taker" have the same meaning as defined in G.S. 14-107.1.

(a1) The Administrative Office of the Courts may authorize the establishment of a program for the collection of worthless checks in any prosecutorial district where economically feasible. The Administrative Office of the Courts may consider the following factors when making a feasibility determination:

(1) The population of the district.

(2) The number of worthless check prosecutions in the district.

(3) The availability of personnel and equipment in the district.

(b) Upon authorization by the Administrative Office of the Courts, a district attorney may establish a program for the collection of worthless checks in cases that may be prosecuted under G.S. 14-107. The district attorney may establish a program for the collection of worthless checks in cases that would be punishable as misdemeanors, in cases that would be punishable as felonies, or both. The district attorney shall establish criteria for the types of worthless check cases that will be eligible under the program.

(b1) A community mediation center may establish and charge fees for its services in the collection of worthless checks as part of a program established under this section and may assist the Administrative Office of the Courts and district attorneys in the establishment of worthless check programs in any districts in which worthless check programs have not been established.

(c) If a check passer participates in the program by paying the fee under G.S. 7A-308(c) and providing restitution to the check taker for (i) the amount of the check or draft, (ii) any service charges imposed on the check taker by a bank or depository for processing the dishonored check, and (iii) any processing fees imposed by the check taker pursuant to G.S. 25-3-506, then the district attorney shall not prosecute the worthless check case under G.S. 14-107.

(d) The Administrative Office of the Courts shall establish procedures for remitting the fee and providing restitution to the check taker.

(e) Repealed by Session Laws 2003-377, s. 3, effective August 1, 2003. (1997-443, s. 18.22(b); 1998-23, s. 11(a); 1998-212, s. 16.3(a); 1999-237, s. 17.7; 2000-67, s. 15.3A(a); 2001-61, s. 1; 2003-377, ss. 1, 2, 3; 2011-145, s. 31.24(a).)

§ 14-108. Obtaining property or services from slot machines, etc., by false coins or tokens.

Any person who shall operate, or cause to be operated, or who shall attempt to operate, or attempt to cause to be operated any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever not lawfully authorized by the owner, lessee or licensee, of such machine, coin-box telephone or receptacle, or who shall take, obtain or receive from or in connection with any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value, or the use or enjoyment of any telephone or telegraph facilities or service, or of any musical instrument, phonograph or other property, without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, shall be guilty of a Class 2 misdemeanor. (1927, c. 68, s. 1; 1969, c. 1224, s. 3; 1993, c. 539, s. 46, c. 553, s. 8; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-109. Manufacture, sale, or gift of devices for cheating slot machines, etc.

Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any automatic vending machine, slot machine, coin-box telephone or other receptacle, depository or contrivance designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, or who, knowing that the same is intended for unlawful use, shall manufacture for sale, or sell or give away any slug, device or substance whatsoever intended or calculated to be placed or deposited in any such automatic vending machine, slot machine, coin-box telephone or other such receptacle, depository or contrivance, shall be guilty of a Class 2 misdemeanor. (1927, c. 68, s. 2; 1969, c. 1224, s. 3; 1993, c. 539, s. 47; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-110. Defrauding innkeeper or campground owner.

No person shall, with intent to defraud, obtain food, lodging, or other accommodations at a hotel, inn, boardinghouse, eating house, or campground. Whoever violates this section shall be guilty of a Class 2 misdemeanor. Obtaining such lodging, food, or other accommodation by false pretense, or by false or fictitious show of pretense of baggage or other property, or absconding without paying or offering to pay therefor, or surreptitiously removing or attempting to remove such baggage, shall be prima facie evidence of such fraudulent intent, but this section shall not apply where there has been an agreement in writing for delay in such payment. (1907, c. 816; C.S., s. 4284; 1969, c. 947; c. 1224, s. 3; 1985, c. 391; 1993, c. 539, s. 48; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-111: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(4).

§ 14-111.1. Obtaining ambulance services without intending to pay therefor – Buncombe, Haywood and Madison Counties.

Any person who with the intent to defraud shall obtain ambulance services for himself or other persons without intending at the time of obtaining such services to pay a reasonable charge therefor, shall be guilty of a Class 2 misdemeanor. If a person or persons obtaining such services willfully fails to pay for the services within a period of 90 days after request for payment, such

failure shall raise a presumption that the services were obtained with the intention to defraud, and with the intention not to pay therefor.

This section shall apply only to the Counties of Buncombe, Haywood and Madison. (1965, c. 976, s. 1; 1969, c. 1224, s. 4; 1993, c. 539, s. 49; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-111.2. Obtaining ambulance services without intending to pay therefor – certain named counties.

Any person who with intent to defraud shall obtain ambulance services without intending at the time of obtaining such services to pay, if financially able, any reasonable charges therefor shall be guilty of a Class 2 misdemeanor. A determination by the court that the recipient of such services has willfully failed to pay for the services rendered for a period of 90 days after request for payment, and that the recipient is financially able to do so, shall raise a presumption that the recipient at the time of obtaining the services intended to defraud the provider of the services and did not intend to pay for the services.

The section shall apply to Alamance, Anson, Ashe, Beaufort, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Cumberland, Davie, Duplin, Durham, Forsyth, Gaston, Graham, Guilford, Halifax, Haywood, Henderson, Hoke, Hyde, Iredell, Macon, Mecklenburg, Montgomery, New Hanover, Onslow, Orange, Pasquotank, Pender, Person, Polk, Randolph, Robeson, Rockingham, Scotland, Stanly, Surry, Transylvania, Union, Vance, Washington, Wilkes and Yadkin Counties only. (1967, c. 964; 1969, cc. 292, 753; c. 1224, s. 4; 1971, cc. 125, 203, 300, 496; 1973, c. 880, s. 2; 1977, cc. 63, 144; 1983, c. 42, s. 1; 1985, c. 335, s. 1; 1987 (Reg. Sess., 1988), c. 910, s. 1; 1993, c. 539, s. 50; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 9, s. 2; 1999-64, s. 1; 2000-15, s. 1; 2001-106, s. 1.)

§ 14-111.3. Making unneeded ambulance request in certain counties.

It shall be unlawful for any person or persons to willfully obtain or attempt to obtain ambulance service that is not needed, or to make a false request or report that an ambulance is needed. Every person convicted of violating this section shall be guilty of a Class 3 misdemeanor.

This section shall apply only to the Counties of Alamance, Ashe, Buncombe, Cabarrus, Camden, Carteret, Cherokee, Clay, Cleveland, Davie, Duplin, Durham, Graham, Greene, Halifax, Haywood, Hoke, Macon, Madison, New Hanover, Onslow, Pender, Polk, Robeson, Rockingham, Washington, Wilkes and Yadkin. (1965, c. 976, s. 2; 1971, c. 496; 1977, c. 96; 1983, c. 42, s. 2; 1985, c. 335, s. 2; 1987 (Reg. Sess., 1988), c. 910, s. 2; 1989, c. 514; 1989 (Reg. Sess., 1990), c. 834; 1993, c. 539, s. 51; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 9, s. 3; 1999-64, s. 2; 2000-15, s. 2; 2001-106, s. 2.)

§ 14-111.4. Misuse of 911 system.

It is unlawful for an individual who is not seeking public safety assistance, is not providing 911 service, or is not responding to a 911 call to access or attempt to access the 911 system for a purpose other than an emergency communication. A person who knowingly violates this section commits a Class 1 misdemeanor. (2007-383, s. 1(b); 2013-286, s. 1.)

§ 14-112. Obtaining merchandise on approval.

If any person, with intent to cheat and defraud, shall solicit and obtain from any merchant any article of merchandise on approval, and shall thereafter, upon demand, refuse or fail to return the same to such merchant in an unused and undamaged condition, or to pay for the same, such person

so offending shall be guilty of a Class 2 misdemeanor. Evidence that a person has solicited a merchant to deliver to him any article of merchandise for examination or approval and has obtained the same upon such solicitation, and thereafter, upon demand, has refused or failed to return the same to such merchant in an unused and undamaged condition, or to pay for the same, shall constitute prima facie evidence of the intent of such person to cheat and defraud, within the meaning of this section: Provided, this section shall not apply to merchandise sold upon a written contract which is signed by the purchaser. (1911, c. 185; C.S., s. 4285; 1941, c. 242; 1969, c. 1224, s. 2; 1993, c. 539, s. 52; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-112.1. Repealed by Session Laws 1967, c. 1088, s. 2.

§ 14-112.2. Exploitation of an older adult or disabled adult.

(a) The following definitions apply in this section:

(1) Disabled adult. – A person 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).

(2) Older adult. – A person 65 years of age or older.

(b) It is unlawful for a person: (i) who stands in a position of trust and confidence with an older adult or disabled adult, or (ii) who has a business relationship with an older adult or disabled adult to knowingly, by deception or intimidation, obtain or use, or endeavor to obtain or use, an older adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the older adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the older adult or disabled adult.

(c) It is unlawful for a person to knowingly, by deception or intimidation, obtain or use, endeavor to obtain or use, or conspire with another to obtain or use an older adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the older adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or benefit someone other than the older adult or disabled adult. This subsection shall not apply to a person acting within the scope of that person's lawful authority as the agent for the older adult or disabled adult.

(d) A violation of subsection (b) of this section is punishable as follows:

(1) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at one hundred thousand dollars ($100,000) or more, then the offense is a Class F felony.

(2) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at twenty thousand dollars ($20,000) or more but less than one hundred thousand dollars ($100,000), then the offense is a Class G felony.

(3) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at less than twenty thousand dollars ($20,000), then the offense is a Class H felony.

(e) A violation of subsection (c) of this section is punishable as follows:

(1) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at one hundred thousand dollars ($100,000) or more, then the offense is a Class G felony.

(2) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at twenty thousand dollars ($20,000) or more but less than one hundred thousand dollars ($100,000), then the offense is a Class H felony.

(3) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at less than twenty thousand dollars ($20,000), then the offense is a Class I felony.

(f) If a person is charged with a violation of this section that involves funds, assets, or property valued at more than five thousand dollars ($5,000), the district attorney may file a petition in the pending criminal proceeding before the court with jurisdiction over the pending charges to freeze the funds, assets, or property of the defendant in an amount up to one hundred fifty percent (150%) of the alleged value of funds, assets, or property in the defendant's pending criminal proceeding for purposes of restitution to the victim. The standard of proof required to freeze the defendant's funds, assets, or property shall be by clear and convincing evidence. The procedure for petitioning the court under this subsection shall be governed by G.S. 14-112.3. (2005-272, s. 2; 2006-264, s. 99; 2013-203, s. 1; 2013-337, s. 1.)

§ 14-112.3. Asset freeze or seizure; proceeding.

(a) For purposes of this section, the term "assets" includes funds and property as well as other assets that may be involved in a violation of G.S. 14-112.2.

(b) Whenever it appears by clear and convincing evidence that any defendant is about to or intends to divest himself or herself of assets in a manner that would render the defendant insolvent for purposes of restitution, the district attorney may make an application to the court to freeze or seize the assets of the defendant. Upon a showing by clear and convincing evidence in the hearing, the court shall issue an order to freeze or seize the assets of the defendant in the amount calculated pursuant to G.S. 14-112.2(f). The procedure for petitioning the court under this section shall be governed by G.S. 1A-1, Rule 65, except as otherwise provided in this section.

(b1) An order to freeze or seize assets shall direct the appropriate State or local law enforcement agency with territorial jurisdiction over the assets to serve and execute the order as follows:

(1) Personal property or financial assets in the defendant's possession that are not held by a financial institution shall be seized and held until final disposition as directed by the order.

(2) If the asset is an account, intangible, or other financial asset held by a financial institution, the State or local law enforcement agency shall serve the order on the entity or institution in possession of the asset with return of service to the clerk of superior court.

(3) If the asset is real property, then a lis pendens shall be filed as directed by the court with the clerk in the county or counties where the property is located in accordance with Article 11 of Chapter 1 of the General Statutes. If property is located in multiple counties, a lis pendens shall be filed in each county.

(4) For all orders served and executed in accordance with subsection (b1) of this section, a return of service shall be filed with the clerk of superior court by the State or local law enforcement agency with an inventory of items seized. If assets identified are financial assets as listed in subdivision (2) of this subsection, then the law enforcement agency shall list the financial institution

wherein such funds are held and the amount of said funds. Said inventory should also identify any and all available real property and identify the counties wherein lis pendens were filed in accordance with subdivision (3) of this subsection.

(b2) A record of any personal property seized by a law enforcement agency pursuant to this section shall be kept and maintained as provided in Article 2 of Chapter 15 of the General Statutes, except that the property shall not be disposed of other than pursuant to an order of the court entered pursuant to this section. Property frozen or seized pursuant to this section shall be deemed to be in the custody of the law enforcement agency seizing it and shall be removed and stored in the discretion of that law enforcement agency, which may do any of the following:

(1) Place the property under seal.

(2) Remove the property to a place designated by the law enforcement agency.

(3) Request that the North Carolina Department of Justice take custody of the property and remove it to an appropriate location pending an order of the court for disposition.

(c) At any time after service of the order to freeze or seize assets, the defendant or any person claiming an interest in the assets may file a motion to release the assets.

(d) In any proceeding to release assets, the burden of proof shall be by clear and convincing evidence and shall be on the State to show that the defendant is about to, intends to, or did divest himself or herself of assets in a manner that would render the defendant insolvent for purposes of restitution. If the court finds that the defendant is about to, intends to, or did divest himself or herself of assets in a manner that would render the defendant insolvent for purposes of restitution, the court shall deny the motion.

(e) If the prosecution of the charge under G.S. 14-112.2 is terminated by voluntary dismissal without leave by the State or the court, or if a judgment of acquittal is entered, the court shall vacate the order to freeze or seize the assets. If assets are released pursuant to this subsection, accrued costs incident to the seizure, freeze, or storage of the assets shall not be charged against the defendant and shall be borne by the agency incurring those costs.

(e1) Upon conviction of the defendant, or entry of a plea of no contest, any frozen or seized assets shall be used to satisfy the defendant's restitution obligation as ordered by the court, accounting for costs incident to seizure, including costs of sale. However, if the defendant can satisfy the restitution order within a period of time designated by the court, the court may accept an alternate form of restitution satisfaction. Any excess assets shall be returned to the defendant.

In order to satisfy an order of restitution, frozen or seized assets shall be handled as follows:

(1) Assets shall be sold, transferred, paid out, or otherwise applied to the defendant's restitution obligation as follows:

a. If the asset is personal property or liquid assets already seized, the property shall be disposed of in accordance with the court order.

b. If the asset is held by a financial institution, the court shall enter an order directing the payment of those funds to the clerk in the amount specified in the restitution order or, if the amount is less than the full restitution award, the full amount of liquid assets shall be paid. The law enforcement agency shall deliver those funds to the clerk.

c. If the asset is real property, the court shall enter an order directing the sale of the property. The sale shall be conducted pursuant to Article 29A of Chapter 1 of the General Statutes. A private sale may be conducted

pursuant to G.S. 1-339.33 through G.S. 1-339.40, if, upon receipt of the petition and satisfactory proof, it appears to the person directed to oversee the sale that a private sale is in the best interest of the victim.

(2) The proceeds of any sale, transfer, or conversion shall be disbursed as follows:

a. The law enforcement agency shall pay all proceeds to the clerk of superior court and shall provide an accounting of personal property sold or liquid assets seized.

b. All proceeds received by the clerk shall be distributed according to the following priority:

1. Payment to the victim in the full amount of the restitution order.
2. The costs and expenses of the sale.
3. All other necessary expenses incident to compliance with this section.
4. Any remaining balance to the defendant within 30 days of the clerk's receipt of the proceeds of the sale, unless the defendant directs the clerk to apply any excess to the defendant's other monetary obligations contained in the judgment of conviction.

(e2) In the event proceeds from the sale, transfer, or conversion of the seized or frozen assets under subsection (e1) of this section are not sufficient to cover the expenses allowed under sub-sub-subdivisions 2. and 3. of sub-subdivision b. of subdivision (2) of subsection (e1) of this section, after notice and a hearing at which the defendant is present, the court may enter a supplemental order of restitution for the unpaid portion of those expenses for the benefit of the agency that incurred the expenses, to be paid as part of the criminal judgment and as provided under G.S. 7A-304(d)(1)e.

(f) Any person holding any interest in the frozen or seized assets may commence a separate civil proceeding in the manner provided by law.

(g) Any filing fees, service fees, or other expenses incurred by any State or county agency for the administration or use of this section shall be recoverable only as provided in sub-sub-subdivision 2. of sub-subdivision b. of subdivision (2) of subsection (e1) of this section. (2013-203, s. 2; 2015-182, s. 1.)

§ 14-113. Obtaining money by false representation of physical disability.

It shall be unlawful for any person to falsely represent himself or herself in any manner whatsoever as blind, deaf, unable to speak, or otherwise physically disabled for the purpose of obtaining money or other thing of value or of making sales of any character of personal property. Any person so falsely representing himself or herself and securing aid or assistance on account of such representation, shall be deemed guilty of a Class 2 misdemeanor. (1919, c. 104; C.S., s. 4286; 1969, c. 1224, s. 1; 1993, c. 539, s. 53; 1994, Ex. Sess., c. 24, s. 14(c); 2011-29, s. 3.)