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ARE YOU A TARGET?

A Short Summary of Several New North Carolina Laws

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TWD (Texting While Driving)

Are you a target for law enforcement? You may be if you have been unable to put down that Crackberry or iPhone while driving? In addition to the risk of crashing your car, be prepared to shell out \$100 and court costs if law enforcement catches you TWD (texting while driving). As of December 1, 2009, it is unlawful for any person to operate a vehicle on a public street or highway while using a mobile telephone to read or write text messages or emails. This prohibition does not apply to any name or number stored in the phone, nor to the operator of a vehicle that is lawfully parked or stopped (N.C.G.S. §20-137.4A(b)).

Note that no driver's license points or insurance surcharge shall be assessed as a result of violation of this section.

Vanity Check

The next change in North Carolina law received less coverage than all the TWD restrictions described above. The revision to N.C.G.S. §20-63(g) now makes it illegal for any operator of a motor vehicle to cover the state name, year sticker, or month sticker on a registration plate with a license plate frame. So you need to remove those Tarheel, Blue Devil and Wolfpack license plate borders. Violation of this statute also carries up to a \$100 fine. However, while this statute became effective December 1, 2009, violations of this statute incurring from December 1, 2009 through November 30, 2010 will result in just a warning.

No Smoking, Please (Really!)

Until recently, owners of restaurants, bars and other similar establishments had to choose sides – do they allow indoor smoking thereby potentially alienating those who are offended by second-hand smoke, or do they ban smoking and lose patrons who wish to smoke? As of January 2, 2010, the burden and potential consequences of such decision has been removed from business owners' hands in that the North Carolina General Assembly has prohibited smoking in most public places and places of employment with certain key exceptions. The background for this new law is found in its first two subsections entitled "Legislative Findings and Intent" which state the following:

"The General Assembly has found that second-hand smoke has been proven to cause cancer, heart disease and asthma attacks in both smokers and non-smokers. In 2006, a report issued by the United States Surgeon General stated that the scientific evidence indicates that there is no risk-free level of exposure to second-hand smoke. It is the intent of the General Assembly to protect the health of individuals in public places of employment and riding in state and government vehicles from the risks related to second-hand smoke. It is further the intent of the General Assembly to allow local governments to adopt local laws governing smoking within their jurisdictions that are more restrictive than the State law."

The new law has some exceptions such as allowing smoking in designated smoking guest rooms in hotels so long as no greater than 20% of the established guest rooms are designated as such; a cigar bar may allow it, if smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to the law; and "private clubs". A private club is

defined as a country club or an organization that maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is incorporated as a non-profit corporation or is exempt from Federal income tax under the Internal Revenue Code. Local governments may further restrict smoking in public places with a few exceptions, such exceptions including a private residence, a private vehicle or a motion picture, television, theater or other live production set if the actor or performer is portraying the use of a tobacco product during production.

Continuing to smoke in non-smoking area described in the law is punishable by a fine of not more than \$50. For the business owners, the first violation results in a written notice of the violation and notification of action to be taken in the event of subsequent violations. A second violation calls for written notice of the second violation and notification of administrative penalties to be imposed for subsequent violations. An administrative penalty of not more than \$200 is imposed for the third and subsequent violations. Each day on which a violation occurs may be considered a separate and distinct civil violation. No violation of this law is punishable as a criminal violation.

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