

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1355\*

Short Title: Increase Court Fees.

(Public)

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Sponsors: Representatives Holt and Gist.

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Referred to: Courts and Justice.

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May 12, 1993

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE EXEMPTION FROM COURT COSTS FOR SEAT BELT, HELMET, HEADLIGHT, ABC, AND HUNTING VIOLATIONS, TO IMPOSE A FEE FOR REPORTING FAILURES TO APPEAR AND COMPLY, AND TO INCREASE FEES IN THE GENERAL COURT OF JUSTICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-135.2A(e) reads as rewritten:

"(e) Any person violating this section during the period from October 1, 1985, to December 31, 1986, shall be given a warning of violation only. Thereafter, any person violating this section shall have committed an infraction and shall pay a ~~fine~~ penalty of no more than twenty-five dollars (\$25.00). An infraction is an unlawful act that is not a crime. The procedure for charging and trying an infraction is the same as for a misdemeanor, but conviction of an infraction has no consequence other than payment of a ~~fine~~. ~~A person convicted of an infraction may not be assessed penalty and~~ court costs."

Sec. 2. G.S. 20-129(a) reads as rewritten:

"(a) When Vehicles Must Be Equipped. – Every vehicle upon a highway within this State shall be equipped with lighted headlamps and rear lamps as required for different classes of vehicles, and subject to exemption with reference to lights on parked vehicles as declared in G.S. 20-134:

(1) During the period from sunset to sunrise,

(2) When there is not sufficient light to render clearly discernible any person on the highway at a distance of 400 feet ahead, or

(3) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 822, s. 1.

1 (4) At any other time when windshield wipers are in use as a result of  
2 smoke, fog, rain, sleet, or snow, or when inclement weather or  
3 environmental factors severely reduce the ability to clearly discern  
4 persons and vehicles on the street and highway at a distance of 500  
5 feet ahead, provided, however, the provisions of this subdivision shall  
6 not apply to instances when windshield wipers are used intermittently  
7 in misting rain, sleet, or snow. Any person violating this subdivision  
8 during the period from October 1, 1990, through December 31, 1991,  
9 shall be given a warning of the violation only. Thereafter, any person  
10 violating this subdivision shall have committed an infraction and shall  
11 pay a ~~fine~~ penalty of not more than five dollars (\$5.00) and shall ~~not~~ be  
12 assessed court costs. No drivers license points, insurance points or  
13 premium surcharge shall be assessed on account of violation of this  
14 subdivision and no negligence or liability shall be assessed on or  
15 imputed to any party on account of a violation of this subdivision. The  
16 Commissioner of Motor Vehicles and the Superintendent of Public  
17 Instruction shall incorporate into driver education programs and driver  
18 licensing programs instruction designed to encourage compliance with  
19 this subdivision as an important means of reducing accidents by  
20 making vehicles more discernible during periods of limited visibility."

21 Sec. 3. G.S. 18B-302(i) reads as rewritten:

22 "(i) Purchase or Possession by 19 or 20-Year Old. – A violation of subdivision  
23 (b)(1) of this section by a person who is 19 or 20 years old is an infraction and is  
24 punishable by a ~~fine~~ penalty of not more than twenty-five dollars (\$25.00). An infraction  
25 is an unlawful act that is not a crime. The procedure for charging and trying an  
26 infraction is the same as for a misdemeanor, but conviction of an infraction has no  
27 consequence other than payment of a ~~fine~~. ~~A person convicted of an infraction may not be~~  
28 ~~assessed penalty and court costs.~~"

29 Sec. 4. G.S. 113-291.8(b) reads as rewritten:

30 "(b) Any person violating this section during the 1987 big game hunting season  
31 shall be given a warning of violation only. Thereafter, any person violating this section  
32 has committed an infraction and shall pay a ~~fine~~ penalty of not more than twenty-five  
33 dollars (\$25.00). An infraction is an unlawful act that is not a crime. The procedure for  
34 charging and trying an infraction is the same as for a misdemeanor, but conviction of an  
35 infraction has no consequence other than payment of a ~~fine~~. ~~A person convicted of an~~  
36 ~~infraction may not be assessed penalty and court costs.~~

37 Wildlife Enforcement Officers are authorized to charge persons with the infraction  
38 created by this section."

39 Sec. 5. G.S. 7A-304(a) reads as rewritten:

40 "(a) In every criminal case in the superior or district court, wherein the defendant  
41 is convicted, or enters a plea of guilty or **nolo contendere**, or when costs are assessed  
42 against the prosecuting witness, the following costs shall be assessed and collected,  
43 except that when the judgment imposes an active prison sentence, costs shall be

1 assessed and collected only when the judgment specifically so provides, and that no  
2 costs may be assessed when a case is dismissed.

3 (1) For each arrest or personal service of criminal process, including  
4 citations and subpoenas, the sum of five dollars (\$5.00), to be remitted  
5 to the county wherein the arrest was made or process was served,  
6 except that in those cases in which the arrest was made or process  
7 served by a law-enforcement officer employed by a municipality, the  
8 fee shall be paid to the municipality employing the officer.

9 (2) For the use of the courtroom and related judicial facilities, the sum of  
10 six dollars (\$6.00) in the district court, including cases before a  
11 magistrate, and the sum of twenty-four dollars (\$24.00) in superior  
12 court, to be remitted to the county in which the judgment is rendered.  
13 In all cases where the judgment is rendered in facilities provided by a  
14 municipality, the facilities fee shall be paid to the municipality. Funds  
15 derived from the facilities fees shall be used exclusively by the county  
16 or municipality for providing, maintaining, and constructing adequate  
17 courtroom and related judicial facilities, including: adequate space and  
18 furniture for judges, district attorneys, public defenders, magistrates,  
19 juries, and other court related personnel; office space, furniture and  
20 vaults for the clerk; jail and juvenile detention facilities; free parking  
21 for jurors; and a law library (including books) if one has heretofore  
22 been established or if the governing body hereafter decides to establish  
23 one. In the event the funds derived from the facilities fees exceed what  
24 is needed for these purposes, the county or municipality may, with the  
25 approval of the Administrative Officer of the Courts as to the amount,  
26 use any or all of the excess to retire outstanding indebtedness incurred  
27 in the construction of the facilities, or to reimburse the county or  
28 municipality for funds expended in constructing or renovating the  
29 facilities (without incurring any indebtedness) within a period of two  
30 years before or after the date a district court is established in such  
31 county, or to supplement the operations of the General Court of Justice  
32 in the county.

33 (3) For the retirement and insurance benefits of both State and local  
34 government law-enforcement officers, the sum of seven dollars and  
35 twenty-five cents (\$7.25), to be remitted to the State Treasurer. Fifty  
36 cents (50¢) of this sum shall be administered as is provided in Article  
37 12C of Chapter 143 of the General Statutes. Five dollars and seventy-  
38 five cents (\$5.75) of this sum shall be administered as is provided in  
39 Article 12E of Chapter 143 of the General Statutes, with one dollar and  
40 twenty-five cents (\$1.25) being administered in accordance with the  
41 provisions of G.S. 143-166.50(e). One dollar (\$1.00) of this sum shall  
42 be administered as is provided in Article 12F of Chapter 143 of the  
43 General Statutes.

- 1 (3a) For the supplemental pension benefits of sheriffs, the sum of seventy-  
2 five cents (75¢) to be remitted to the Department of Justice and  
3 administered under the provisions of Article 12G of Chapter 143 of the  
4 General Statutes.
- 5 (4) For support of the General Court of Justice, the sum of forty-one  
6 dollars (\$41.00) in the district court, including cases before a  
7 magistrate, and the sum of forty-eight dollars (\$48.00) in the superior  
8 court, to be remitted to the State Treasurer.
- 9 (5) For using pretrial release services, the district or superior court judge  
10 shall, upon conviction, impose a fee of fifteen dollars (\$15.00) to be  
11 remitted to the county providing the pretrial release services. This cost  
12 shall be assessed and collected only if the defendant had been accepted  
13 and released to the supervision of the agency providing the pretrial  
14 release services.
- 15 (6) For support of the General Court of Justice, upon the issuance by the  
16 clerk of a report to the Division of Motor Vehicles pursuant to G.S. 20-  
17 24.2, the sum of twenty-five dollars (\$25.00), to be remitted to the  
18 State Treasurer."

19 Sec. 6. G.S. 7A-305(a) reads as rewritten:

20 "(a) In every civil action in the superior or district court the following costs shall  
21 be assessed:

- 22 (1) For the use of the courtroom and related judicial facilities, the sum of  
23 six dollars (\$6.00) in cases heard before a magistrate, and the sum of  
24 ten dollars (\$10.00) in district and superior court, to be remitted to the  
25 county in which the judgment is rendered, except that in all cases in  
26 which the judgment is rendered in facilities provided by a  
27 municipality, the facilities fee shall be paid to the municipality. Funds  
28 derived from the facilities fees shall be used in the same manner, for  
29 the same purposes, and subject to the same restrictions, as facilities  
30 fees assessed in criminal actions.
- 31 (2) For support of the General Court of Justice, the sum of ~~fifty-five dollars~~  
32 ~~(\$55.00)~~ fifty-six dollars (\$56.00) in the superior court, and the sum of  
33 ~~forty dollars (\$40.00)~~ forty-one dollars (\$41.00) in the district court  
34 except that if the case is assigned to a magistrate the sum shall be  
35 ~~twenty-eight dollars (\$28.00)~~ twenty-nine dollars (\$29.00). Sums  
36 collected under this subsection shall be remitted to the State  
37 Treasurer."

38 Sec. 7. G.S. 7A-306 reads as rewritten:

39 "**§ 7A-306. Costs in special proceedings.**

40 (a) In every special proceeding in the superior court, the following costs shall  
41 be assessed:

- 42 (1) For the use of the courtroom and related judicial facilities, the sum of  
43 four dollars (\$4.00) to be remitted to the county. Funds derived from  
44 the facilities fees shall be used in the same manner, for the same

1 purposes, and subject to the same restrictions, as facilities fees  
2 assessed in criminal actions.

3 (2) For support of the General Court of Justice the sum of ~~twenty-six~~  
4 ~~dollars (\$26.00).~~ twenty-seven dollars (\$27.00). In addition, in  
5 proceedings involving land, except boundary disputes, if the fair  
6 market value of the land involved is over one hundred dollars  
7 (\$100.00), there shall be an additional sum of thirty cents (30¢) per  
8 one hundred dollars (\$100.00) of value, or major fraction thereof, not  
9 to exceed a maximum additional sum of two hundred dollars  
10 (\$200.00). Fair market value is determined by the sale price if there is  
11 a sale, the appraiser's valuation if there is no sale, or the appraised  
12 value from the property tax records if there is neither a sale nor an  
13 appraiser's valuation. Sums collected under this subsection shall be  
14 remitted to the State Treasurer.

15 (b) The facilities fee and ~~twenty-six dollars (\$26.00)~~ twenty-seven dollars (\$27.00)  
16 of the General Court of Justice fee are payable at the time the proceeding is initiated.

17 (c) The following additional expenses, when incurred, are assessable or  
18 recoverable, as the case may be:

19 (1) Witness fees, as provided by law.

20 (2) Counsel fees, as provided by law.

21 (3) Costs on appeal, of the original transcript of testimony, if any, insofar  
22 as essential to the appeal.

23 (4) Fees for personal service of civil process, and other sheriff's fees, and  
24 for service by publication, as provided by law.

25 (5) Fees of guardians **ad litem**, referees, receivers, commissioners,  
26 surveyors, arbitrators, appraisers, and other similar court appointees, as  
27 provided by law. The fees of such appointees shall include reasonable  
28 reimbursement for stenographic assistance, when necessary.

29 (d) Costs assessed before the clerk shall be added to costs assessable on appeal to  
30 the judge or upon transfer to the civil issue docket.

31 (e) Nothing in this section shall affect the liability of the respective parties for  
32 costs, as provided by law.

33 (f) This section does not apply to a foreclosure under power of sale in a deed of  
34 trust or mortgage."

35 Sec. 8. G.S. 7A-307 reads as rewritten:

36 "**§ 7A-307. Costs in administration of estates.**

37 (a) In the administration of the estates of decedents, minors, incompetents, of  
38 missing persons, and of trusts under wills and under powers of attorney, and in  
39 collections of personal property by affidavit, the following costs shall be assessed:

40 (1) For the use of the courtroom and related judicial facilities, the sum of  
41 four dollars (\$4.00), to be remitted to the county. Funds derived from  
42 the facilities fees shall be used in the same manner, for the same  
43 purposes, and subject to the same restrictions, as facilities fees  
44 assessed in criminal actions.

- 1           (2) For support of the General Court of Justice, the sum of ~~twenty-six~~  
2 ~~dollars (\$26.00)~~, twenty-seven dollars (\$27.00), plus an additional forty  
3 cents (40¢) per one hundred dollars (\$100.00), or major fraction  
4 thereof, of the gross estate, not to exceed three thousand dollars  
5 (\$3,000). Gross estate shall include the fair market value of all  
6 personalty when received, and all proceeds from the sale of realty  
7 coming into the hands of the fiduciary, but shall not include the value  
8 of realty. In collections of personal property by affidavit, the fee based  
9 on the gross estate shall be computed from the information in the final  
10 affidavit of collection made pursuant to G.S. 28A-25-3 and shall be  
11 paid when that affidavit is filed. In all other cases, this fee shall be  
12 computed from the information reported in the inventory and shall be  
13 paid when the inventory is filed with the clerk. If additional gross  
14 estate, including income, comes into the hands of the fiduciary after  
15 the filing of the inventory, the fee for such additional value shall be  
16 assessed and paid upon the filing of any account or report disclosing  
17 such additional value. For each filing the minimum fee shall be ten  
18 dollars (\$10.00). Sums collected under this subsection shall be  
19 remitted to the State Treasurer.
- 20           (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty  
21 cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the  
22 gross estate, not to exceed three thousand dollars (\$3,000), shall not be  
23 assessed on personalty received by a trust under a will when the estate  
24 of the decedent was administered under Chapters 28 or 28A of the  
25 General Statutes. Instead, a fee of fifteen dollars (\$15.00) shall be  
26 assessed on the filing of each annual and final account.
- 27           (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs  
28 shall be assessed when the estate is administered or settled pursuant to  
29 G.S. 28A-25-6.
- 30           (3) For probate of a will without qualification of a personal representative,  
31 the clerk shall assess a facilities fee as provided in subdivision (1) of  
32 this subsection and shall assess for support of the General Court of  
33 Justice, the sum of ~~seventeen dollars (\$17.00)~~, eighteen dollars (\$18.00).
- 34           (b) In collections of personal property by affidavit, the facilities fee and ~~twenty-~~  
35 ~~six dollars (\$26.00)~~ twenty-seven dollars (\$27.00) of the General Court of Justice fee  
36 shall be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. In  
37 all other cases, these fees shall be paid at the time of filing of the first inventory. If the  
38 sole asset of the estate is a cause of action, the thirty dollars (\$30.00) shall be paid at the  
39 time of the qualification of the fiduciary.
- 40           (b1) The clerk shall assess the following miscellaneous fees:
- 41               (1) Filing and indexing a will with no probate  
42                   – first page       \$ 1.00  
43                   – each additional page or fraction thereof   .25  
44               (2) Issuing letters to fiduciaries, per letter over five

- 1 letters issued 1.00  
2 (3) Inventory of safe deposits of a decedent, per box, per day 15.00  
3 (4) Taking a deposition 5.00  
4 (5) Docketing and indexing a will probated in another  
5 county in the State  
6 – first page 1.00  
7 – each additional page or fraction thereof .25  
8 (c) The following additional expenses, when incurred, are also assessable or  
9 recoverable, as the case may be:  
10 (1) Witness fees, as provided by law.  
11 (2) Counsel fees, as provided by law.  
12 (3) Costs on appeal, of the original transcript of testimony, if any, insofar  
13 as essential to the appeal.  
14 (4) Fees for personal service of civil process, and other sheriff's fees, as  
15 provided by law.  
16 (5) Fees of guardians **ad litem**, referees, receivers, commissioners,  
17 surveyors, arbitrators, appraisers, and other similar court appointees, as  
18 provided by law.  
19 (d) Costs assessed before the clerk shall be added to costs assessable on appeal to  
20 the judge or upon transfer to the civil issue docket.  
21 (e) Nothing in this section shall affect the liability of the respective parties for  
22 costs, as provided by law."  
23 Sec. 9. This act becomes effective July 1, 1993.