

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety – State Capitol Police

RULE CITATION: 14B NCAC 13 .0102

DEADLINE FOR RECEIPT: Wednesday, May 11, 2016

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, consider making the following changes:

- *Please state "None" or "N/A" rather than "None requested" in Box 6.*
- *Please remove the last sentence in Box 9B, as it does not pertain to this Rule.*

Please follow the formatting requirements of Rule 26 NCAC 02C .0108, namely:

- *1.5 line spacing*

Please follow the requirements in Rule 26 NCAC 02C .0404 and properly phrase the Introductory Statement. You need to state the volume and issue and page of the publication in the NC Register, as well as the action taken. For example, "14B NCAC 13 .0102 is amended as published in 29:24 NCR 2785-2786 with changes as follows:"

I recommend breaking this Rule into two Paragraphs. Paragraph (a) would be the language on lines 4 through 7. Paragraph (b) would be the language on lines 8 through 10.

Why do you need the new language on lines 4 through 7? This is almost a verbatim recitation of G.S. 150B-911(d):

§ 143B-911. State Capitol Police Section - powers and duties.

(d) Jurisdiction of Officers. - Each special police officer of the State Capitol Police shall have the same power of arrest as the police officers of the City of Raleigh. Such authority may be exercised within the same territorial jurisdiction as exercised by the police officers of the City of Raleigh, and in addition thereto the authority of a deputy sheriff may be exercised on property owned, leased, or maintained by the State located in the County of Wake.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 27, 2016

Assuming you need the language, on line 4, replace “are” before “appointed” with “shall be”

Also on line 4, insert a “shall” before “have”

On line 4, you mean that the authority to arrest will only be after taking the oath required by G.S. 143B-911(c), correct?

On line 6, clarify what you are saying regarding the jurisdiction of a deputy sheriff. Delete “in addition thereto” and just state what you mean.

On line 8, insert a “shall” before “receive”

On line 9, to what minimum training are you referring to? Do you need a cross-reference to another rule?

On line 9, the name of the agency is the “Criminal Justice Education and Training Standards Commission”

On line 9, replace “are” with “shall be”

In the History Note, G.S. 143B-900, which is the original citation, was recodified as G.S. 143B-911 by SL 2014-100. Please update the History Note with the correct citation.

In the History Note, you are striking G.S. 143-340(21),(22) but those do not currently appear in the History Note. You do not need to strike them, as they are not there.

On line 18, at the bottom of the History Note, you need to add an amended effective date, thusly:

*History Note: Authority G.S. ~~143B-900~~; 143B-911;
Eff. February 1, 1976;
Readopted Eff. February 27, 1979;
Transferred from T01.03C Eff. November 25, 1986;
Amended Eff. July 1, 1987;
Transferred from 01 NCAC 04H .0104 Eff. June 1, 2013;
Amended Eff. June 1, 2016.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 27, 2016

1 14B NCAC 13 .0102 is proposed for amendment as follows:
2

3 **14B NCAC 13 .0102 AUTHORITY**

4 Police officers of State Capitol Police are appointed as special police officers and have the same power of arrest as
5 the police officers of the City of Raleigh. Such authority may be exercised within the same territorial jurisdiction as
6 exercised by the police officers of the City of Raleigh, and in addition thereto the authority of a deputy sheriff may
7 be exercised on property owned, leased, or maintained by the State located in the County of Wake. in the City of
8 Raleigh and on state property located in Wake County. These Police Officers receive the minimum training as
9 required by Criminal Justice Training and Standards ~~Council~~ Commission and are certified as law enforcement
10 officers.
11

12 *History Note: Authority G.S. ~~143-340(21),(22)~~; 143B-900*
13 *Eff. February 1, 1976;*
14 *Readopted Eff. February 27, 1979;*
15 *Transferred from T01.03C Eff. November 25, 1986;*
16 *Amended Eff. July 1, 1987;*
17 *Transferred from 01 NCAC 04H .0104 Eff. June 1, 2013.*
18

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety – State Capitol Police

RULE CITATION: 14B NCAC 13 .0201

DEADLINE FOR RECEIPT: Wednesday, May 11, 2016

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, consider making the following changes:

- *Please state "None" or "N/A" rather than "None requested" in Box 6.*
- *Please remove the last sentence in Box 9B, as it does not pertain to this Rule.*

Please follow the formatting requirements of Rule 26 NCAC 02C .0108, namely:

- *1.5 line spacing*

Please follow the requirements in Rule 26 NCAC 02C .0404 and properly phrase the Introductory Statement. You need to state the volume and issue and page of the publication in the NC Register, as well as the action taken.

What is the purpose of this Rule? Are you establishing arrest procedures for your employees to follow in Rule?

On line 4, replace "will" with "shall"

In Item (1) on line 5, replace "must" with "shall" and "himself" with "himself or herself"

On line 5, you are inserting the comma after "himself" without showing it. This is not original language, and if you wish to retain a comma, you must show the change.

On line 5, define "clearly identified"

In Item (2), line 6, state "he or she"

In Item (3), line 7, you must show that you are changing "cause;" to "charge or charges;" Look at what you published in the NC Register to show the changes correctly.

So that I understand – by deleting Item (4) on line 8, are you removing the requirement that an individual be read his or her rights under Miranda v. Arizona? Is this your intent?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 27, 2016

In the new Item (4), line 10, if the arrestee is being given a summons or citation, are they actually being placed under arrest?

In Item (5), this is not the proper way to delete (6), capitalize "Complete" nor the proper way to make report "report(s)" Use the language as you published it in the NC Register to make this change.

Also in Item (6), to whom are these reports sent? Are they sent to a superior, or kept in the office?

In the History Note, G.S. 143B-900, which is the original citation, was recodified as G.S. 143B-911 by SL 2014-100. Please update the History Note with the correct citation.

In the History Note, you are striking G.S. 143-340(21),(22) but those do not currently appear in the History Note. You do not need to strike them, as they are not there.

At the bottom of the History Note, you need to add an amended effective date.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 14B NCAC 13 .0201 is proposed for amendment as follows:
2

3 **14B NCAC 13 .0201 ARRESTS**

4 Any time an arrest is made, the following procedures will be followed:

- 5 (1) The arresting officer must identify himself, or be clearly identified as a law enforcement officer;
6 (2) Inform the individual that he is under arrest;
7 (3) Inform the arrestee of the ~~cause~~ charge or charges;
8 ~~(4) Read the individual his rights;~~
9 ~~(4) (5) Transport the arrestee to a judicial official the county magistrate's office located in the Wake~~
10 ~~County Courthouse for booking unless the arrestee is released subsequent to a summons or~~
11 ~~citation to appear in court; Complete the commitment papers, warrant and establish a trial date;~~
12 ~~(6)(5) Return to office and eComplete report(s) of arrest.~~

13
14 *History Note: Authority G.S. ~~143-340(21),(22)~~; 143B-900*
15 *Eff. February 1, 1976;*
16 *Readopted Eff. February 27, 1979;*
17 *Transferred from T01.03C Eff. November 25, 1986;*
18 *Transferred from 01 NCAC 04H .0201 Eff. June 1, 2013.*
19

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety – State Capitol Police

RULE CITATION: 14B NCAC 13 .0202

DEADLINE FOR RECEIPT: Wednesday, May 11, 2016

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, consider making the following changes:

- *Please state "None" or "N/A" rather than "None requested" in Box 6.*
- *Please remove the last sentence in Box 9B, as it does not pertain to this Rule.*

Please follow the formatting requirements of Rule 26 NCAC 02C .0108, namely:

- *1.5 line spacing.*

Please follow the requirements in Rule 26 NCAC 02C .0404 and properly phrase the Introductory Statement. You need to state the volume and issue and page of the publication in the NC Register, as well as the action taken.

On line 4, who must report this? The individual involved in the collision? Or some other agency? Depending upon the answer, you may need to change "must" to "shall"

On line 5, change "will" to "shall" and investigated by whom? The State Capitol Police?

On line 5, I recommend beginning the sentence "Collisions"

Also on line 5, estimated by whom?

On lines 6 and 7, you currently have "(\$41000.00)" I do not believe you intend to state this, based upon the language in the rule. This is not the correct way to strike "(\$400.00)" and replace it with "\$1000.00)" The correct formatting is in the NC Register publication and I suggest you use that for guidance.

On line 6, replace "will" with "shall"

On line 6, who is the investigating agency that shall make the report?

On line 7, is this equal or less than, or only less than? If so, what happens if the damage is estimated at exactly \$1000?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 27, 2016

Also on line 7, if the damage is less than \$1000 and there is no death or personal injury, then it's filed with the State Capitol Police? If it's less than \$1000 and there is personal injury, it's not reported to the DMV? What is the intent here?

On line 8, replace "will" with "shall" and who must report this?

In the History Note, G.S. 143B-900, which is the original citation, was recodified as G.S. 143B-911 by SL 2014-100. Please update the History Note with the correct citation.

In the History Note, you are striking G.S. 143-340(21),(22) but those do not currently appear in the History Note. You do not need to strike them, as they are not there.

At the bottom of the History Note, you need to add an amended effective date.

At the bottom of the History Note, you need to add an amended effective date as "Amended Eff."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 27, 2016

1 14B NCAC 13 .0202 is proposed for amendment as follows:
2

3 **14B NCAC 13 .0202 TRAFFIC ACCIDENTS COLLISIONS**

4 All traffic ~~accidents~~ collisions occurring on state property must be reported to State Capitol Police. All ~~accidents~~
5 collisions will be investigated. Those ~~accidents~~ collisions estimated to have damage over ~~four hundred one thousand~~
6 dollars (~~\$41000.00~~) will be reported to Division of Motor Vehicles by the investigating agency. The reports of those
7 ~~accidents~~ collisions with damage less than ~~four hundred one thousand~~ dollars (~~\$41000.00~~) and not involving death
8 or personal injury will be filed with State Capitol Police. ~~Copies of accident reports will be furnished to individuals~~
9 ~~involved and their insurance companies upon request.~~

10
11 *History Note: Authority G.S. ~~143-340(21),(22)~~; 143B-900*
12 *Eff. February 1, 1976;*
13 *Readopted Eff. February 27, 1979;*
14 *Transferred from T01.03C Eff. November 25, 1986;*
15 *Amended Eff. July 1, 1987;*
16 *Transferred from 01 NCAC 04H .0206 Eff. June 1, 2013.*
17

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety – State Capitol Police

RULE CITATION: 14B NCAC 13 .0203

DEADLINE FOR RECEIPT: Wednesday, May 11, 2016

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, consider stating “None” or “N/A” rather than “None requested” in Box 6.

Please follow the requirements in Rule 26 NCAC 02C .0404 and properly phrase the Introductory Statement. You need to state the volume and issue and page of the publication in the NC Register, as well as the action taken.

This is not the proper way to format a repeal. An examples of a properly formatted repealed rule may be found at: <http://www.ncoah.com/rules/examples.html>

Do not strike the name and citation of the Rule.

Do not include any text at all. Simply have the name and citation and then below it, the History Note.

Do not strike the History Note.

In the History Note, you are striking G.S. 143-340(21),(22) but those do not currently appear in the History Note. You do not need to strike them, as they are not there. However, G.S. 143B-900 is currently in the History Note and needs to be added back in and struck.

At the bottom of the History Note, include a “Repealed Eff.” date.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 27, 2016

1 14B NCAC 13 .0203 is proposed for repeal as follows:
2

3 **~~14B NCAC 13 .0203~~ STATE PARKING LOTS**

4 ~~The rules and regulations adopted by the Council of State governing state parking lots will be enforced by this~~
5 ~~department. The issuing of warning tickets, citations and the towing of illegally parked vehicles are means used to~~
6 ~~enforce those rules and regulations. All state parking lots are patrolled by mobile units.~~
7

8 ~~*History Note: Authority G.S. 143-340(21),(22); 01 NCAC 04A;*~~

9 ~~*Eff. February 1, 1976;*~~

10 ~~*Readopted Eff. February 27, 1979;*~~

11 ~~*Transferred from T01.03C Eff. November 25, 1986;*~~

12 ~~*Transferred from 01 NCAC 04H .0207 Eff. June 1, 2013.*~~
13
14