



**This Bill Analysis reflects the contents of the bill as it was presented in committee.**

# SENATE BILL 223: Habitual Felons/Clarify Previous Convictions.

2017-2018 General Assembly

|                       |  |                     |                                   |
|-----------------------|--|---------------------|-----------------------------------|
| <b>Committee:</b>     | House Judiciary II. If favorable, re-refer to Rules, Calendar, and Operations of the House | <b>Date:</b>        | June 6, 2017                      |
| <b>Introduced by:</b> | Sens. J. Jackson, Britt, Newton  | <b>Prepared by:</b> | Susan Sitze*<br>Committee Counsel |
| <b>Analysis of:</b>   | PCS to Second Edition<br>S223-CSSA-32  |                     |                                   |

**OVERVIEW:** *The PCS for Senate Bill 223 would clarify what prior criminal convictions may be used to establish habitual felon status and remove the sunset on driver's license eligibility for persons convicted of habitual impaired driving.*

## CURRENT LAW, BILL ANALYSIS, AND BACKGROUND:

### Section 1 of the PCS

**Under current law,** G.S. 14-7.1 provides that habitual felon is a status declared by a court when a defendant has been convicted of or pled guilty to three felony offenses. In order for a conviction to be used to establish habitual felon status, the prior offense must be for “an offense which is a felony under the laws of the State or other sovereign” where the conviction took place, “regardless of the sentence actually imposed.”

**The PCS for Senate Bill 223** would clarify the definition of 'felony offense' as it is used to establish habitual felon status.

Aside from specific exceptions, a "felony offense" would include:

- A felony in this State.
- A felony in another state or sovereign, that is substantially similar to a felony in North Carolina.
- An offense substantially similar to a felony in North Carolina, punishable by imprisonment for more than a year in a state or sovereign that does not use the classification of felony.
- A felony under federal law.

This section would become **effective** December 1, 2017, and apply to offenses committed on or after that date and that is the principal felony offense for a charge of a status offense of habitual felon. Prosecutions for offenses committed before the effective date of this act would not be abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

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# Senate PCS 223

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## Section 2 of the PCS

**Background:** In **S.L. 2009-369**, the General Assembly enacted statutes authorizing a person convicted of habitual impaired driving to petition to have their driver's license conditionally reinstated. Under that law, the person could petition 10 years after completion of their sentence for habitual impaired driving, and was eligible to obtain a license if the Division of Motor Vehicles found both of the following:

- In the 10 years preceding the application the person had not been convicted of any motor vehicle, alcohol, drug, or other criminal offense.
- The person was not currently a user of alcohol, unlawfully using any controlled substance, or an excessive user of prescription drugs.

S.L. 2009-369 was enacted with a sunset of **December 1, 2014**. In section 61.5 of **S.L. 2014-115** the sunset was extended to **December 1, 2016**. That sunset expired on December 1, 2016 without further action by the General Assembly.

**The PCS for Senate Bill 223** would remove the December 1, 2016 sunset **effective retroactively to December 1, 2016**. This would have the effect of reviving those statutes that allowed the reinstatement of a driver's license for habitual impaired driving offenders. No new sunset would be placed on these statutes by the PCS.

*\*Jennifer Bedford, Staff Attorney, contributed substantially to this summary.*