



Office of the Sheriff

Michael D. Andrews, Sheriff

November 11, 2014

The Honorable William V. Bell,
Office of the Mayor
101 City Hall Plaza
Durham, N.C. 27701

Re: Legislative Proposals

Dear Mayor Bell:

I am writing to solicit your support for three legislative initiatives which I have submitted to the North Carolina Sheriff's Association. I hope that you will make them part of any initiatives which the City of Durham submits to the League of Municipalities and that, even if the League does not adopt them, the City will urge they be supported by our legislative delegation.

Stolen Firearms Offenses:

The first of these initiatives advances a matter successfully championed by the City of Durham in the last long session, addressing gun violence. As you are aware, there have been increases in breaking and entering offenses and we have seen some where the primary items taken have been firearms. Accordingly, I am proposing that the penalties for offenses involving stolen firearms be increased, as follows:

1. Amendment of G.S. 14-72, to increase the classification/penalty for larceny of a firearm from a Class H Felony to a Class E Felony.
2. Amendment of G.S. 14-72, to increase the classification/penalty for the sale or receipt of a stolen firearm from a Class H Felony to a Class E Felony.
3. Amendment of G.S. 15A-1340.16A, to increase the minimum term of imprisonment for any offense where the underlying felony was committed with a stolen firearm by 72 months.

A significant enhancement in the level of penalty applicable to these crimes will send a strong message about how seriously they are considered and hopefully improve the safety of our citizens.

Brake Lights:

The second initiative is a simple matter of motoring safety. During the proceedings of *State v. Heien*, 366 N.C. 271 (2012), our Court of Appeals, and then our State's Supreme Court, noted that while General Statute 20-129(d) requires that all motor vehicles "shall have all originally



equipped rear lamps or the equivalent in good working order”, paragraph (g) of that same statute only requires that motor vehicles have a single stop lamp on the rear of the vehicle be in operation. The Supreme Court noted that this dissonance may have made sense when the statute was enacted over a half century ago, but less so now. It then held that the officer was reasonably mistaken in believing that the General Statutes required all brake lights to be functional, as are the rear lamps, and headlights and therefore that his decision to stop the defendant was reasonable. However neither this decision, nor any resulting action by the General Assembly, changed the law regarding how many brake lights are required to be functioning.

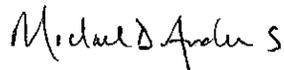
That only one brake light is sufficient for safe driving was flatly rejected by the decision of the U.S. Department of Transportation when it promulgated Federal Motor Vehicle Safety Standard 108 which required the installation of Center High Mounted Stop Lamps. These have been required on all new passenger cars since model year 1986. That these lights are required to be installed, but that North Carolina does not require them to be operational negates the intended safety benefits. Accordingly, GS 20-129(g) be amended to require that all originally equipped brake lights be in good working order and the “triangle of safety” these lights are intended to provide, actually be required under the law.

Unclaimed Livestock:

Currently, General Statute §68-20, requires that that when livestock is found running loose, and the owner is unknown, they be held for 30 days and then public notice posted for at least 20 days announcing an intended sale. This requires animal control authorities to hold livestock found running loose for at least 50 days. Since few governmental authorities have facilities for such an impound, this means that significant bills can be incurred to arrange for appropriate facilities and care for the animals. Local experience shows that with internet advertising and modern communications, most livestock having responsible owners who wish to locate their animals do so on the same day, but in any case within three days. Input from veterinary professionals has also indicated that herd animals should be returned to a social environment as quickly as possible. To expedite this process, the statute should be amended to reduce the time for holding and advertising animals whose owner is unknown to be the same as that for those with a known owner, 3 days of initial hold, followed by 10 days of posted public notice of intended sale. This provides almost two weeks for a responsible owner to realize they have lost an animal and reclaim it.

I hope that you will favorably consider and endorse these proposals. Should you have any questions regarding them, please let me know.

Sincerely,



Michael D. Andrews
Sheriff of Durham County

