
Coates' Canons Blog: Parking Enforcement: Civil Penalties, Infractions and Wheel Locks

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The contents of an envelope tucked under the windshield wiper of your car parked on a city street doesn't seem as ominous as a citation hand-delivered through your driver's side window by a law enforcement officer illuminated by the flashing blue lights of her police vehicle. But both may land you in district criminal court.

That's because, like the violation of many of the motor vehicle laws set forth in Chapter 20, the violation of a local government ordinance regulating parking is an infraction, punishable by a penalty of not more than \$50, unless the local government's parking ordinance provides otherwise. **G.S. 14-4(b)**.

Like citations for other infractions, which must be personally served upon the person charged, citations for parking offenses must be delivered to the driver if that person is present when the citation is served. **G.S. 15A-302(d)**. Frequently, however, the driver is not present. In such a case the citation is served—this time upon the registered owner of the vehicle rather than the driver—by affixing a copy of the citation to the vehicle in a conspicuous place. See *id.* If the person cited does not appear in court, then a criminal summons may issue. See **G.S. 15A-303**.

In the prosecution of a person for violation of a parking ordinance, the State may rely upon **G.S. 20-162.1**, which provides that it is prima facie evidence that the vehicle was parked and left by the person or entity in whose name the vehicle is registered with North Carolina's Division of Motor Vehicles. When a person is found responsible for an infraction based on this prima facie rule, however, the maximum penalty decreases and may not be more than \$5. See *State v. Rumpfelt*, 241 N.C. 375 (1955). The cumulative payment will not, however, be de minimis as court costs also must be assessed upon a finding of responsibility. **G.S. 7A-304**.

But hold on. Who among you has received a parking ticket deposited on your windshield, penalizing you, as the registered owner of the vehicle, and requiring payment of more than \$5 to the police department, the clerk at city hall, or some other agency of the local government? Was the local government that ticketed you violating the law or otherwise pulling the wool over your eyes? No.

Parking violations that are infractions also may be enforced through imposition of a civil penalty recoverable by civil suit. See **G.S. 153A-123(c)**, (f) (providing methods for enforcing county ordinances); **G.S. 160A-175 (c)**, (f) (providing methods for enforcing city ordinances). Thus, rather than serving a citation that requires a person's appearance in district court, a city may instead deposit a parking ticket upon a car that requires payment of a penalty in an amount that is not proscribed by the provisions of G.S. 14-4 or G.S. 20-162.1.

Indeed, many cities forego the infraction enforcement route all together by decriminalizing their parking ordinances pursuant to G.S. 160A-175(b). If parking violations are not violations of state penal law, money collected for unlawful parking may be retained by the city rather than being remitted to the county for the use of the public schools under the fines and forfeitures clause of Article IX, section 7 of the North Carolina Constitution. Cf. *Cauble v. City of Asheville*, 301 N.C. 340 (1980) (holding that clear proceeds of sums paid to the City of Asheville for violations of its overtime parking ordinance were owed to Buncombe County for the maintenance of its public schools because violation of the parking laws also was a breach of the State's penal law pursuant to G.S. 14-4).

A handful of cities also are authorized to place immobilizing wheel locks on vehicles to enforce payment of parking tickets. **S.L. 1995-381** authorizes the cities of Durham, Greensboro, Raleigh, and Winston-Salem to adopt ordinances providing for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of ninety days.

Parking for handicapped persons, in contrast, is regulated by **G.S. 20-37.6** rather than by local ordinance. A violation of



handicapped parking laws, including improper parking in a handicapped space, is an infraction that carries a penalty of at least \$100 and up to \$250. G.S. 20-37.6(e), (f). It is prima facie evidence in the prosecution of such a violation that the vehicle was parked and left in the space by its registered owner. G.S. 20-37.6(f). In addition, a law enforcement officer may cause a vehicle parked in violation of G.S. 20-37.6 to be towed. A person cited for illegal parking in a handicapped space may waive court appearance by pleading responsible and remitting \$100 and court costs to the clerk of court. See Waiver Item B.3 of the **Traffic Offense Waiver List**.

Links

- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=14-4
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=15a-302
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=15a-303
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=20-162.1
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=7a-304
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=153a-123
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160A-175
- www.ncleg.net/EnactedLegislation/SessionLaws/HTML/1995-1996/SL1995-381.html
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=20-37.6
- www.nccourts.org/Forms/Documents/1219.pdf