

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 909

Short Title: Break & Enter/Steal Gun.

(Public)

Sponsors: Senators Dalton; Albertson, Carpenter, Clark, Garwood, Hartsell, Jenkins, Phillips, Rand, Reeves, Rucho, Shaw of Guilford, Warren, and Weinstein.

Referred to: Judiciary.

April 17, 1997

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE AN ENHANCED PENALTY FOR CERTAIN OFFENSES IF
2 THE DEFENDANT POSSESSED OR TOOK A DANGEROUS WEAPON DURING
3 THE OFFENSE.
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5 The General Assembly of North Carolina enacts:

6 Section 1. Part 2 of Article 81B of Chapter 15A of the General Statutes is
7 amended by adding a new section to read:

8 **"§ 15A-1340.16B. Enhanced sentence if a defendant convicted of first or second**
9 **degree burglary or breaking and entering also possessed or took a**
10 **dangerous weapon during the offense.**

11 (a) If a person is convicted of an offense under G.S. 14-51, 14-53, or 14-54 and
12 the court finds that the person possessed or took a dangerous weapon during the
13 commission of the underlying offense, the court shall increase the minimum term of
14 imprisonment to which the person is sentenced by 60 months. The court shall not
15 suspend the 60-month minimum term of imprisonment imposed as an enhanced sentence
16 under this section and shall not place any person sentenced under this section on
17 probation for the enhanced sentence.

1 (b) Subsection (a) of this section does not apply if the evidence that the person
2 possessed or took a dangerous weapon during the offense is needed to prove an element
3 of the underlying offense.

4 (c) For purposes of this section, a 'dangerous weapon' is a firearm, a knife or other
5 instrument with a point or sharp edge subject to ready use as a weapon, a destructive
6 device, or an object or substance designed, altered, used, or possessed for the purpose of
7 inflicting or threatening to inflict serious bodily injury. A closed pocket knife that is
8 neither displayed nor used is not a dangerous weapon."

9 Section 2. This act becomes effective December 1, 1997, and applies to
10 offenses committed on or after that date.