

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 991

Short Title: Concealed Handgun Amendments.

(Public)

Sponsors: Senator McDaniel.

Referred to: Judiciary.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO CORRECT FLAWS IN THE CONCEALED HANDGUN PERMIT LAWS
THAT IMPAIR THE ABILITY OF LAWFUL CITIZENS TO CARRY FIREARMS
FOR SELF-PROTECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-415.11 reads as rewritten:

"§ 14-415.11. Permit to carry concealed handgun; scope of permit.

(a) Any person who has a concealed handgun permit may carry a concealed handgun unless otherwise specifically prohibited by law. The person shall carry the permit together with valid identification whenever the person is carrying a concealed handgun, shall disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun when approached or addressed by the officer, and shall display both the permit and the proper identification upon the request of a law enforcement officer.

(b) The sheriff shall issue a permit to carry a concealed handgun to a person who qualifies for a permit under G.S. 14-415.12. The permit shall be valid throughout the State for a period of four years from the date of issuance.

(c) A permit does not authorize a person to carry a concealed handgun in the areas prohibited by G.S. ~~14-269.2~~, ~~14-269.2~~ ~~14-269.3~~, and G.S. ~~14-269.4~~, ~~14-269.4~~ and ~~14-277.2~~, in an area prohibited by rule adopted under G.S. 120-32.1, in any area prohibited by 18

1 U.S.C. § 922 or any other federal law, in a law enforcement or correctional facility, in a
2 building housing only State or federal offices, in an office of the State or federal
3 government that is not located in a building exclusively occupied by the State or federal
4 government, ~~a financial institution,~~ or any other premises where notice that carrying a
5 concealed handgun is prohibited by the posting of a conspicuous notice or statement by
6 the person in legal possession or control of the premises. It shall be unlawful for a person,
7 with or without a permit, to carry a concealed handgun while consuming alcohol or at any
8 time while the person has remaining in his body any alcohol or in his blood a controlled
9 substance previously consumed, but a person does not violate this condition if a
10 controlled substance in his blood was lawfully obtained and taken in therapeutically
11 appropriate amounts.

12 (d) A person who is issued a permit shall notify the sheriff who issued the permit
13 of any change in the person's permanent address within 30 days after the change of
14 address. If a permit is lost or destroyed, the person to whom the permit was issued shall
15 notify the sheriff who issued the permit of the loss or destruction of the permit. A person
16 may obtain a duplicate permit by submitting to the sheriff a notarized statement that the
17 permit was lost or destroyed and paying the required duplicate permit fee.

18 (e) It shall be unlawful for any person possessing a firearm while in an
19 establishment licensed to dispense alcoholic beverages for on-premises consumption to
20 remain in any portion of said establishment which is primarily devoted to the purpose of
21 dispensing and consuming alcoholic beverages. Any person violating this provision shall
22 be guilty of a Class 1 misdemeanor."

23 Section 2. G.S. 14-415.12(b) reads as rewritten:

24 "(b) The sheriff shall deny a permit to an applicant who:

- 25 (1) Is ineligible to own, possess, or receive a firearm under the provisions
26 of State or federal law.
- 27 (2) Is under indictment or against whom a finding of probable cause exists
28 for a felony.
- 29 (3) Has been adjudicated guilty in any court of a felony.
- 30 (4) Is a fugitive from justice.
- 31 (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any
32 depressant, stimulant, or narcotic drug, or any other controlled
33 substance as defined in 21 U.S.C. § 802.
- 34 (6) Is currently, or has been previously adjudicated or administratively
35 determined to be, lacking mental capacity or mentally ~~ill~~-ill, unless the
36 applicant provides documentation from a psychologist or psychiatrist
37 that the person is no longer under such disability.
- 38 (7) Is or has been discharged from the armed forces under ~~conditions other~~
39 ~~than honorable.~~ dishonorable conditions.
- 40 (8) Is or has been adjudicated guilty of or received a ~~prayer for judgment~~
41 ~~continued or~~-suspended sentence for one or more crimes of violence
42 constituting a misdemeanor, including but not limited to, a violation of a
43 misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a

1 violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1,
2 ~~14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-~~
3 ~~277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2), 14-~~
4 ~~288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2, or 14-~~
5 ~~415.21(b).~~ 14-415.21(b) unless five years have passed since the
6 conviction.

7 (9) Has had entry of a prayer for judgment continued for a ~~criminal offense~~
8 ~~which would disqualify the person from obtaining a concealed handgun~~
9 ~~permit.~~ felony.

10 (10) Is free on bond or personal recognizance pending trial, appeal, or
11 sentencing for a crime which would disqualify him from obtaining a
12 concealed handgun permit.

13 (11) Has been convicted of an impaired driving offense under G.S. 20-138.1,
14 20-138.2, or 20-138.3 within three years prior to the date on which the
15 application is submitted."

16 Section 3. G.S. 14-415.15(a) reads as rewritten:

17 "(a) Except as permitted under subsection (b) of this section, within ~~90~~ 45 days
18 after receipt of the items listed in G.S. 14-415.13 from an applicant, the sheriff shall ~~either~~
19 issue the permit, or deny the permit. ~~permit, or if the record check is not complete, grant a~~
20 temporary permit that is valid until the sheriff has completed the investigation, at which
21 time the sheriff shall either issue or deny the permit. ~~The sheriff may conduct any~~
22 ~~investigation necessary to determine the qualification or competency of the person applying for~~
23 ~~the permit, including record checks.~~ checks to determine the qualification or competency of
24 the person applying for the permit."

25 Section 4. G.S. 14-415.16 reads as rewritten:

26 "**§ 14-415.16. Renewal of permit.**

27 The holder of a permit shall apply to renew the permit at least 30 days prior to its
28 expiration date by filing with the sheriff of the county in which the person resides a
29 renewal form provided by the sheriff's office, a notarized affidavit stating that the
30 permittee remains qualified under the criteria provided in this Article, a newly
31 administered full set of the permittee's fingerprints, and a renewal fee. Upon receipt of the
32 completed renewal application, including the permittee's fingerprints, and the appropriate
33 payment of fees, the sheriff shall determine if the permittee remains qualified to hold a
34 permit in accordance with the provisions of G.S. 14-415.12. The permittee's criminal
35 history shall be updated, and the sheriff ~~may~~ shall waive the requirement of taking
36 another firearms safety and training course. If the permittee applies for a renewal of the
37 permit within 30 days of its expiration date and if the permittee remains qualified to have
38 a permit under G.S. 14-415.12, the sheriff shall renew the permit."

39 Section 5. G.S. 14-415.19(a) reads as rewritten:

40 "(a) The permit fees assessed under this Article are payable to the sheriff. The
41 sheriff shall transmit the proceeds of these fees to the county finance officer to be
42 remitted or credited by the county finance officer in accordance with the provisions of
43 this subsection. The permit fees are as follows:

1 Application fee ~~\$80.00~~ \$65.00

2 Renewal fee ~~\$80.00~~ \$65.00

3 Duplicate permit fee \$15.00

4 The county finance officer shall remit ~~sixty dollars (\$60.00)~~ fifty dollars (\$50.00) of
5 each application or renewal fee to the North Carolina Department of Justice for the costs
6 of State and federal criminal record checks performed in connection with processing
7 applications and for the implementation of the provisions of this Article. The remaining
8 ~~twenty dollars (\$20.00)~~ fifteen dollars (\$15.00) of each application or renewal fee shall be
9 used by the sheriff to pay the costs of administering this Article and for other law
10 enforcement purposes. The county shall expend the restricted funds for these purposes
11 only."

12 Section 6. G.S. 14-415.20 reads as rewritten:

13 "**§ 14-415.20. No liability of ~~sheriff~~, sheriff and certain other persons.**

14 (a) A sheriff who issues or refuses to issue a permit to carry a concealed handgun
15 under this Article shall not incur any civil or criminal liability as the result of the
16 performance of the sheriff's duties under this Article.

17 (b) No person, organization, corporation, or entity shall incur any civil or criminal
18 liability for injuries and/or damage occurring on their premises that is caused by the
19 negligent and/or intentional discharge of a firearm by a concealed handgun permit holder.
20 This section shall not be construed to bar any cause of action against the permit holder or
21 those under whose control they are operating."

22 Section 7. G.S. 14-415.21 reads as rewritten:

23 "**§ 14-415.21. Violations of this Article punishable as an infraction and a Class 2**
24 **misdemeanor.**

25 (a) A person who has been issued a valid permit who is found to be carrying a
26 concealed handgun without the permit in the person's possession or who fails to disclose
27 to any law enforcement officer that the person holds a valid permit and is carrying a
28 concealed handgun, as required by G.S. 14-415.11, shall be guilty of an infraction for the
29 first offense and shall be punished in accordance with G.S. 14-3.1. In lieu of paying a fine
30 for the first offense, the person may surrender the permit. Subsequent offenses for failing
31 to carry a valid permit or for failing to make the necessary disclosures to a law
32 enforcement officer as required by G.S. 14-415.11 shall be punished in accordance with
33 subsection (b) of this section.

34 (b) A person who violates the provisions of this Article other than as set forth in
35 ~~subsection (a)~~ subsections (a) and (c) of this section is guilty of a Class 2 misdemeanor.

36 (c) A person who carries a concealed handgun upon premises that have been posed
37 in accordance with G.S. 14-415.11(c) shall be guilty of an infraction."

38 Section 8. G.S. 14-415.23 reads as rewritten:

39 "**§ 14-415.23. Statewide uniformity.**

40 It is the intent of the General Assembly to prescribe a uniform system for the
41 regulation of legally carrying a concealed handgun. To insure uniformity, no political
42 subdivisions, boards, or agencies of the State nor any county, city, municipality,
43 municipal corporation, town, township, village, nor any department or agency thereof,

1 may enact ordinances, rules, or regulations concerning legally carrying a concealed
2 handgun. A unit of local government may adopt an ordinance to permit the posting of a
3 prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.11(c),
4 on local government ~~buildings, their appurtenant premises, and parks.~~ buildings."

5 Section 9. Article 54B of Chapter 14 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 14-415.24. Reciprocity of concealed handgun permits.**

8 Any permit issued by a state which recognizes a permit issued in accordance with this
9 Article or which otherwise allows North Carolina citizens to carry concealed handguns
10 shall be recognized in this State under the terms and conditions of that permit."

11 Section 10. G.S. 14-269.2(g) reads as rewritten:

12 "(g) This section shall not apply to:

13 (1) A weapon used solely for educational or school-sanctioned ceremonial
14 purposes, or used in a school-approved program conducted under the
15 supervision of an adult whose supervision has been approved by the
16 school authority;

17 (2) Armed forces personnel, officers and soldiers of the militia and national
18 guard, law-enforcement personnel, fire fighters, emergency service
19 personnel, North Carolina Forest Service personnel, and any private
20 police employed by an educational institution, when acting in the
21 discharge of their official duties; or

22 (3) Home schools as defined in ~~G.S. 115C-563(a).~~ G.S. 115C-563(a); or

23 (4) A weapon that is possessed by a holder of a permit issued pursuant to
24 Article 54B of this Chapter and that is secured in a locked container."

25 Section 11. This act becomes effective December 1, 1997.