

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH80156-LH-56A (01/19)

Short Title: Amend Various Gun Laws.

(Public)

Sponsors: Representatives Hilton, LaRoque, Cleveland, and Hastings (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS LAWS REGARDING THE RIGHT TO OWN, POSSESS,
3 OR CARRY A FIREARM IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 14-269.2 reads as rewritten:

6 "§ 14-269.2. Weapons on campus or other educational property.

7 (a) The following definitions apply to this section:

8 (1) Educational property. – Any school building or bus, school campus,
9 grounds, recreational area, athletic field, or other property owned, ~~used,~~ or
10 operated by any board of education or school board of trustees, or directors
11 for the administration of any school.

12 (1a) Employee. – A person employed by a local board of education or school
13 whether the person is an adult or a minor.

14 (1b) School. – A public or private school, community college, college, or
15 university.

16 (2) Student. – A person enrolled in a school or a person who has been suspended
17 or expelled within the last five years from a school, whether the person is an
18 adult or a minor.

19 (3) Switchblade knife. – A knife containing a blade that opens automatically by
20 the release of a spring or a similar contrivance.

21 (4) Weapon. – Any device enumerated in subsection (b), (b1), or (d) of this
22 section.

23 (b) It shall be a ~~Class I felony~~ Class 1 misdemeanor for any person knowingly to
24 possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any
25 kind on educational property or to a curricular or extracurricular activity sponsored by a school.
26 Unless the conduct is covered under some other provision of law providing greater punishment,
27 any person who willfully discharges a firearm of any kind on educational property is guilty of a
28 Class F felony. However, this subsection does not apply to a BB gun, stun gun, air rifle, or air
29 pistol.

30 (b1) It shall be a Class G felony for any person to possess or carry, whether openly or
31 concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in
32 G.S. 14-284.1, on educational property or to a curricular or extracurricular activity sponsored
33 by a school. This subsection shall not apply to fireworks.

34 (c) It shall be a Class I felony for any person to cause, encourage, or aid a minor who is
35 less than 18 years old to possess or carry, whether openly or concealed, any gun, rifle, pistol, or



1 other firearm of any kind on educational property. However, this subsection does not apply to a
2 BB gun, stun gun, air rifle, or air pistol.

3 (c1) It shall be a Class G felony for any person to cause, encourage, or aid a minor who
4 is less than 18 years old to possess or carry, whether openly or concealed, any dynamite
5 cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1 on
6 educational property. This subsection shall not apply to fireworks.

7 (d) It shall be a ~~Class 1~~ Class 2 misdemeanor for any person to possess or carry,
8 whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk,
9 dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and
10 razor blades (except solely for personal shaving), firework, or any sharp-pointed or edged
11 instrument except instructional supplies, unaltered nail files and clips and tools used solely for
12 preparation of food, instruction, and maintenance, on educational property.

13 (e) It shall be a ~~Class 1~~ Class 2 misdemeanor for any person to cause, encourage, or aid
14 a minor who is less than 18 years old to possess or carry, whether openly or concealed, any BB
15 gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade
16 knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal
17 shaving), firework, or any sharp-pointed or edged instrument except instructional supplies,
18 unaltered nail files and clips and tools used solely for preparation of food, instruction, and
19 maintenance, on educational property.

20 (f) ~~Notwithstanding subsection (b) of this section it shall be a Class 1 misdemeanor~~
21 ~~rather than a Class I felony for any person to possess or carry, whether openly or concealed,~~
22 Subsection (b) of this section shall not apply to any person who possesses or carries any gun,
23 rifle, pistol, or other firearm of any kind, on educational property or to a curricular or
24 extracurricular activity sponsored by a school if: in any of the following circumstances:

25 (1) ~~The person is not a student attending school on the educational property or~~
26 ~~an employee employed by the school working on the educational property;~~
27 ~~and~~

28 (1a) ~~The person is not a student attending a curricular or extracurricular activity~~
29 ~~sponsored by the school at which the student is enrolled or an employee~~
30 ~~attending a curricular or extracurricular activity sponsored by the school at~~
31 ~~which the employee is employed; and~~

32 (1b) The person has a permit issued in accordance with Article 54B of this
33 Chapter or that is valid under G.S. 14-415.24 and the firearm is in a closed
34 compartment or container within the person's locked vehicle or in a locked
35 container securely affixed to the person's vehicle.

36 (2) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999, and
37 applicable to offenses committed on or after that date.

38 (3) The firearm is not loaded, is in a motor vehicle, and is in a locked container
39 or a locked firearm rack.

40 (4) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999, and
41 applicable to offenses committed on or after that date.

42 (g) This section shall not apply to any of the following:

43 (1) A weapon used solely for educational or school-sanctioned ceremonial
44 purposes, or used in a school-approved program conducted under the
45 supervision of an adult whose supervision has been approved by the school
46 authority.

47 (1a) A person exempted by the provisions of G.S. 14-269(b).

48 (2) Firefighters, emergency service personnel, and North Carolina Forest
49 Service personnel, and any private police employed by a school, when acting
50 in the discharge of their official duties.

51 (3) Home schools as defined in G.S. 115C-563(a).

- 1 (4) Weapons used for hunting purposes on the Howell Woods Nature Center
2 property in Johnston County owned by Johnston Community College when
3 used with the written permission of Johnston Community College or for
4 hunting purposes on other educational property when used with the written
5 permission of the governing body of the school that controls the educational
6 property.
- 7 (5) A person registered under Chapter 74C of the General Statutes as an armed
8 armored car service guard or an armed courier service guard when acting in
9 the discharge of the guard's duties and with the permission of the college or
10 university.
- 11 (6) A person registered under Chapter 74C of the General Statutes as an armed
12 security guard while on the premises of a hospital or health care facility
13 located on educational property when acting in the discharge of the guard's
14 duties with the permission of the college or university.
- 15 (h) No person shall be guilty of a criminal violation of this section with regard to the
16 possession or carrying of a weapon so long as both of the following apply:
- 17 (1) The person comes into possession of a weapon by taking or receiving the
18 weapon from another person or by finding the weapon.
- 19 (2) The person delivers the weapon, directly or indirectly, as soon as practical to
20 law enforcement authorities."

21 **SECTION 2.** G.S. 14-269.4 reads as rewritten:

22 **"§ 14-269.4. Weapons on State property and in courthouses.**

23 It shall be unlawful for any person willfully and intentionally to possess, or carry, whether
24 openly or concealed, any deadly weapon, not used solely for instructional or officially
25 sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the
26 Western Residence of the Governor, or on the grounds of any of these buildings, and in any
27 building housing any court of the General Court of Justice. If a court is housed in a building
28 containing nonpublic uses in addition to the court, then this prohibition shall apply only to that
29 portion of the building used for court purposes while the building is being used for court
30 purposes.

31 This section shall not apply ~~to~~ to any of the following:

- 32 (1) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,
- 33 (1a) A person exempted by the provisions of ~~G.S. 14-269(b)~~, G.S. 14-269(b).
- 34 (2) through (4) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,
- 35 (4a) Any person in a building housing a court of the General Court of Justice in
36 possession of a weapon for evidentiary purposes, to deliver it to a
37 law-enforcement agency, or for purposes of ~~registration~~, registration.
- 38 (4b) Any district court judge or superior court judge who carries or possesses a
39 concealed handgun in a building housing a court of the General Court of
40 Justice if the judge is in the building to discharge his or her official duties
41 and the judge has a concealed handgun permit issued in accordance with
42 Article 54B of this Chapter or considered valid under
43 ~~G.S. 14-415.24~~, G.S. 14-415.24.
- 44 (4c) Firearms in a courthouse, carried by detention officers employed by and
45 authorized by the sheriff to carry ~~firearms~~, firearms.
- 46 (4d) Any magistrate who carries or possesses a concealed handgun in any portion
47 of a building housing a court of the General Court of Justice other than a
48 courtroom itself unless the magistrate is presiding in that courtroom, if the
49 magistrate (i) is in the building to discharge the magistrate's official duties,
50 (ii) has a concealed handgun permit issued in accordance with Article 54B of
51 this Chapter or considered valid under G.S. 14-415.24, (iii) has successfully

1 completed a one-time weapons retention training substantially similar to that
2 provided to certified law enforcement officers in North Carolina, and (iv)
3 secures the weapon in a locked compartment when the weapon is not on the
4 magistrate's ~~person, person.~~

5 (5) ~~State-owned rest areas, rest stops along the highways, and State-owned~~
6 ~~hunting and fishing reservations.~~

7 (6) A person with a permit issued in accordance with Article 54B of this
8 Chapter or considered valid under G.S. 14-415.24 who has a firearm in a
9 closed compartment or container within the person's locked vehicle or in a
10 locked container securely affixed to the person's vehicle.

11 Any person violating the provisions of this section shall be guilty of a Class 1
12 misdemeanor."

13 **SECTION 3.** G.S. 14-269.7(a) reads as rewritten:

14 "(a) Any minor who willfully and intentionally possesses or carries a handgun is guilty
15 of a Class 2 misdemeanor."

16 **SECTION 4.** G.S. 14-269.8 reads as rewritten:

17 **"§ 14-269.8. Purchase or possession of firearms by person subject to domestic violence**
18 **order prohibited.**

19 (a) ~~In accordance with G.S. 50B-3.1, it~~ It is unlawful for any person ~~person, if the~~
20 person has been ordered not to do so pursuant to G.S. 50B-3.1, to own, possess, purchase, or
21 receive or attempt to own, possess, purchase, or receive a firearm, as defined in
22 G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed
23 firearms if ordered by the court for so long as that protective order or any successive protective
24 order with a firearm prohibition entered against that person pursuant to Chapter 50B of the
25 General Statutes is in effect.

26 (b) Any person violating the provisions of this section shall be guilty of a ~~Class H~~
27 ~~felony~~ Class 1 misdemeanor."

28 **SECTION 5.** G.S. 14-277.1 reads as rewritten:

29 **"§ 14-277.1. Communicating threats.**

30 (a) A person is guilty of a Class 1 misdemeanor if without lawful ~~authority~~ authority or
31 justification:

32 (1) He willfully threatens to physically injure the person or that person's child,
33 sibling, spouse, or dependent or willfully threatens to damage the property of
34 another;

35 (2) The threat is communicated to the other person, orally, in writing, or by any
36 other means;

37 (3) The threat is made in a manner and under circumstances which would cause
38 a reasonable person to believe that the threat is likely to be carried out; and

39 (4) The person threatened believes that the threat will be carried out.

40 (b) A violation of this section is a Class 1 misdemeanor."

41 **SECTION 6.** G.S. 14-277.2 reads as rewritten:

42 **"§ 14-277.2. Weapons at parades, etc., prohibited.**

43 (a) It shall be unlawful for any person participating ~~in, affiliated with, in~~ or present as a
44 spectator at any parade, funeral procession, picket line, or demonstration upon any private
45 health care facility or upon any public place owned or under the control of the State or any of
46 its political subdivisions to willfully or intentionally possess or have immediate access to any
47 dangerous weapon. Violation of this subsection shall be a Class 1 misdemeanor. ~~It shall be~~
48 presumed that any Any rifle or gun carried on a rack in a pickup truck at a holiday parade or in
49 a funeral procession or otherwise locked within a vehicle or stored in a locked container
50 securely affixed to a vehicle does not violate the terms of this ~~act~~ section.

1 (b) For the purposes of this section the term "dangerous weapon" shall include those
2 weapons specified in G.S. 14-269, 14-269.2, 14-284.1, or ~~14-288.8 or any other object capable~~
3 ~~of inflicting serious bodily injury or death when used as a weapon.~~ 14-288.8.

4 (c) ~~The provisions prohibitions~~ of this section shall not apply ~~to~~ to any of the following:

5 (1) ~~a~~ ~~A~~ person exempted by the provisions of G.S. ~~14-269(b)~~ 14-269(b).

6 (2) ~~or to persons~~ A person authorized by State or federal law to carry dangerous
7 weapons in the performance of ~~their duties~~ the person's duties.

8 (3) ~~or to any~~ Any person who obtains a permit to carry a dangerous weapon at a
9 parade, funeral procession, picket line, or demonstration from the sheriff or
10 police chief, whichever is appropriate, of the locality where such parade,
11 funeral procession, picket line, or demonstration is to take place.

12 (4) A person who is carrying a concealed handgun and has a permit issued in
13 accordance with Article 54B of this Chapter or considered valid under
14 G.S. 14-415.24."

15 **SECTION 7.** G.S. 14-288.12(b) reads as rewritten:

16 "(b) The ordinances authorized by this section may permit prohibitions and restrictions:

17 (1) Of movements of people in public places, including directing and
18 compelling the evacuation of all or part of the population from any stricken
19 or threatened area within the governing body's jurisdiction, to prescribe
20 routes, modes of transportation, and destinations in connection with
21 evacuation; and to control ingress and egress of a disaster area, and the
22 movement of persons within the area;

23 (2) Of the operation of offices, business establishments, and other places to or
24 from which people may travel or at which they may congregate;

25 (3) Upon the possession, transportation, sale, purchase, and consumption of
26 alcoholic beverages;

27 (4) ~~Upon~~ Subject to G.S. 14-288.1A, upon the possession, transportation, sale,
28 purchase, storage, and use of dangerous weapons and substances, and
29 gasoline; and

30 (5) Upon other activities or conditions the control of which may be reasonably
31 necessary to maintain order and protect lives or property during the state of
32 emergency.

33 The ordinances may delegate to the mayor of the municipality the authority to determine and
34 proclaim the existence of a state of emergency, and to impose those authorized prohibitions and
35 restrictions appropriate at a particular time."

36 **SECTION 8.** G.S. 14-409.40 reads as rewritten:

37 "**§ 14-409.40. Statewide uniformity of local regulation.**

38 (a) It is declared by the General Assembly that the regulation of firearms is properly an
39 issue of general, statewide concern, and that the entire field of regulation of firearms is
40 preempted from regulation by local governments except as provided by this section.

41 (a1) The General Assembly further declares that the lawful design, marketing,
42 manufacture, distribution, sale, or transfer of firearms or ammunition to the public is not an
43 unreasonably dangerous activity and does not constitute a nuisance per se and furthermore, that
44 it is the unlawful use of firearms and ammunition, rather than their lawful design, marketing,
45 manufacture, distribution, sale, or transfer that is the proximate cause of injuries arising from
46 their unlawful use. This subsection applies only to causes of action brought under subsection
47 (g) of this section.

48 (b) Unless otherwise permitted by this section or other State statute, no county or
49 municipality, or instrumentality or agent thereof, by ordinance, resolution, exercise of
50 proprietary authority, or other enactment, shall regulate in any manner the possession,
51 ownership, storage, transfer, sale, purchase, licensing, or registration of firearms, firearms

1 ammunition, components of firearms, dealers in firearms, or dealers in handgun components or
2 parts.

3 (c) Notwithstanding subsection (b) of this section, a county or municipality, by zoning
4 or other ordinance, may regulate or prohibit the sale of firearms at a location only if there is a
5 lawful, general, similar regulation or prohibition of commercial activities at that location.
6 ~~Nothing in this subsection shall restrict the right of a county or municipality to adopt a general~~
7 ~~zoning plan that prohibits any commercial activity within a fixed distance of a school or other~~
8 ~~educational institution except with a special use permit issued for a commercial activity found~~
9 ~~not to pose a danger to the health, safety, or general welfare of persons attending the school or~~
10 ~~educational institution within the fixed distance. However, an ordinance that is designed or~~
11 ~~enforced effectively to restrict or prohibit the sale, purchase, transfer, manufacture, or display~~
12 ~~of firearms, ammunition, or firearm accessories that are otherwise lawful under the laws of this~~
13 ~~State is in conflict with this section and is void.~~

14 (d) No county or municipality, or instrumentality or agent thereof, by zoning or other
15 ordinance, shall regulate in any manner firearms shows with regulations more stringent than
16 those applying to shows of other types of items.

17 (e) A county or municipality may regulate the transport, carrying, or possession of
18 firearms by employees of the local unit of government in the course of their employment with
19 that local unit of government.

20 (f) Nothing contained in this section prohibits municipalities or counties from
21 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-269.3,
22 14-269.4, 14-277.2, 14-415.11, 14-415.23, ~~including or from prohibiting the possession of~~
23 ~~firearms in public-owned buildings, on the grounds or parking areas of those buildings, or in~~
24 ~~public parks or recreation areas, buildings, except nothing in this subsection shall prohibit a~~
25 ~~person from storing a firearm within a motor vehicle while the vehicle is on these grounds or~~
26 ~~areas. Nothing contained in this section prohibits municipalities or counties from exercising~~
27 ~~powers provided by law in declared states of emergency under Article 36A of this Chapter. In~~
28 ~~parking facilities within or attached to such buildings. A prohibition on firearms in publicly~~
29 ~~owned buildings shall not apply to business or residential lessees occupying the premises.~~

30 (g) The authority to bring suit and the right to recover against any firearms or
31 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or on
32 behalf of any governmental unit, created by or pursuant to an act of the General Assembly or
33 the Constitution, or any department, agency, or authority thereof, for damages, abatement,
34 injunctive relief, or any other remedy resulting from or relating to the lawful design, marketing,
35 manufacture, distribution, sale, or transfer of firearms or ammunition to the public is reserved
36 exclusively to the State. Any action brought by the State pursuant to this section shall be
37 brought by the Attorney General on behalf of the State. This section shall not prohibit a
38 political subdivision or local governmental unit from bringing an action against a firearms or
39 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association for breach
40 of contract or warranty for defect of materials or workmanship as to firearms or ammunition
41 purchased by the political subdivision or local governmental unit."

42 **SECTION 9.** G.S. 14-415.1 reads as rewritten:

43 **"§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

44 (a) It shall be unlawful for any person who has been convicted of a felony to purchase,
45 own, possess, or have in his custody, care, or control any firearm or any weapon of mass death
46 and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i)
47 any weapon, including a starter gun, which will or is designed to or may readily be converted to
48 expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm
49 muffler or firearm silencer. This section does not apply to an antique firearm, as defined in
50 G.S. 14-409.11.

51 Every person violating the provisions of this section shall be punished as a Class G felon.

- 1 (b) Prior convictions which cause disenfranchisement under this section shall only include:
- 2 (1) Felony convictions in North Carolina that occur before, on, or after
- 3 December 1, 1995; and
- 4 (2) Repealed by Session Laws 1995, c. 487, s. 3, effective December 1, 1995.
- 5 (3) Violations of criminal laws of other states or of the United States that occur
- 6 before, on, or after December 1, 1995, and that are substantially similar to
- 7 the crimes covered in subdivision (1) which are punishable where committed
- 8 by imprisonment for a term exceeding one year.

9 When a person is charged under this section, records of prior convictions of any offense,

10 whether in the courts of this State, or in the courts of any other state or of the United States,

11 shall be admissible in evidence for the purpose of proving a violation of this section. The term

12 "conviction" is defined as a final judgment in any case in which felony punishment, or

13 imprisonment for a term exceeding one year, as the case may be, is ~~permissible, authorized,~~

14 without regard to the plea entered or to the sentence imposed. A judgment of a conviction of

15 the defendant or a plea of guilty by the defendant to such an offense certified to a superior court

16 of this State from the custodian of records of any state or federal court shall be prima facie

17 evidence of the facts so certified.

18 (c) The indictment charging the defendant under the terms of this section shall be

19 separate from any indictment charging him with other offenses related to or giving rise to a

20 charge under this section. An indictment which charges the person with violation of this section

21 must set forth the date that the prior offense was committed, the type of offense and the penalty

22 therefor, and the date that the defendant was convicted or plead guilty to such offense, the

23 identity of the court in which the conviction or plea of guilty took place and the verdict and

24 judgment rendered therein.

25 (d) This section does not apply to a person ~~whose firearms rights have been restored~~

26 ~~under G.S. 14-415.4, unless the person is convicted of a subsequent felony after the petition to~~

27 ~~restore the person's firearms rights is granted.~~ who, pursuant to the law of the jurisdiction in

28 which the conviction occurred, has been pardoned or has had his or her firearms rights restored.

29 (e) This section does not apply and there is no disenfranchisement under this section if the

30 felony conviction is a violation under the laws of North Carolina, another state, or the United

31 States that pertains to antitrust violations, unfair trade practices, or restraints of trade."

32 **SECTION 10.** G.S. 14-415.11(c) reads as rewritten.

33 "(c) A permit does not authorize a person to carry a concealed handgun in the areas

34 prohibited by ~~G.S. 14-269.2, 14-269.3, 14-269.4, and 14-277.2, in an area prohibited by rule~~

35 ~~adopted under G.S. 120-32.1, G.S. 14-269.2 and G.S. 14-269.4,~~ in any area prohibited by 18

36 U.S.C. § 922 or any other federal law, in a law enforcement or correctional facility, in a

37 building housing only State or federal offices, in an office of the State or federal government

38 that is not located in a building exclusively occupied by the State or federal government, a

39 ~~financial institution, or on any other premises, except state-owned rest areas or state-owned rest~~

40 ~~stops along the highways, or on any private premises~~ where notice that carrying a concealed

41 handgun is prohibited by the posting of a conspicuous notice or statement by the person in legal

42 possession or control of the premises. It shall be unlawful for a person, with or without a

43 permit, to carry a concealed handgun while consuming alcohol or at any time while the person

44 has remaining in his body any alcohol or in his blood a controlled substance previously

45 consumed, but a person does not violate this condition if a controlled substance in his blood

46 was lawfully obtained and taken in therapeutically appropriate ~~amounts~~ amounts or if the

47 person is on the person's own property."

48 **SECTION 11.** G.S. 14-415.12 reads as rewritten:

49 "**§ 14-415.12. Criteria to qualify for the issuance of a permit.**

50 (a) The sheriff shall issue a permit to an applicant if the applicant qualifies under the

51 following criteria:

- 1 (1) The applicant is a citizen of the United States and has been a resident of the
2 State 30 days or longer immediately preceding the filing of the application.
- 3 (2) The applicant is 21 years of age or older.
- 4 ~~(3) The applicant does not suffer from a physical or mental infirmity that~~
5 ~~prevents the safe handling of a handgun.~~
- 6 (4) The applicant has successfully completed an approved firearms safety and
7 training course which involves the actual firing of handguns and instruction
8 in the laws of this State governing the carrying of a concealed handgun and
9 the use of deadly force. The North Carolina Criminal Justice Education and
10 Training Standards Commission shall prepare and publish general guidelines
11 for courses and qualifications of instructors which would satisfy the
12 requirements of this subdivision. An approved course shall be any course
13 which satisfies the requirements of this subdivision and is certified or
14 sponsored by:
- 15 a. The North Carolina Criminal Justice Education and Training
16 Standards Commission,
- 17 b. The National Rifle Association, or
- 18 c. A law enforcement agency, college, private or public institution or
19 organization, or firearms training school, taught by instructors
20 certified by the North Carolina Criminal Justice Education and
21 Training Standards Commission or the National Rifle Association.
- 22 Every instructor of an approved course shall file a copy of the firearms
23 course description, outline, and proof of certification annually, or upon
24 modification of the course if more frequently, with the North Carolina
25 Criminal Justice Education and Training Standards Commission.
- 26 (5) The applicant is not disqualified under subsection (b) of this section.
- 27 (b) The sheriff shall deny a permit to an applicant who:
- 28 (1) Is ineligible to own, possess, ~~possess~~ or receive a firearm under the
29 provisions of State or federal law.
- 30 ~~(2) Is under indictment or against whom a finding of probable cause exists for a~~
31 ~~felony.~~
- 32 ~~(3) Has been adjudicated guilty in any court of a felony, unless: (i) the felony is~~
33 ~~an offense that pertains to antitrust violations, unfair trade practices, or~~
34 ~~restraints of trade, or (ii) the person's firearms rights have been restored~~
35 ~~pursuant to G.S. 14-415.4.~~
- 36 (4) Is a fugitive from justice.
- 37 (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant,
38 stimulant, or narcotic drug, or any other controlled substance as defined in
39 21 U.S.C. § 802.
- 40 ~~(6) Is currently, or has been previously adjudicated by a court or~~
41 ~~administratively determined by a governmental agency whose decisions are~~
42 ~~subject to judicial review to be, lacking mental capacity or mentally ill.~~
43 ~~Receipt of previous consultative services or outpatient treatment alone shall~~
44 ~~not disqualify an applicant under this subdivision.~~
- 45 (7) Is or has been discharged from the armed forces under conditions other than
46 honorable.
- 47 (8) Is or has been adjudicated guilty of or received a prayer for judgment
48 continued or suspended sentence for one or more crimes of violence
49 constituting a misdemeanor, including but not limited to, a violation of a
50 misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a
51 violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1,

1 ~~14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1,~~
 2 ~~14-277.2, 14-277.3A, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2),~~
 3 ~~14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2,~~
 4 ~~14-415.21(b), 14-415.26(d), or former G.S. 14-277.3.~~

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

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

11 (11) Has been convicted of an impaired driving offense under G.S. 20-138.1,
 12 20-138.2, or 20-138.3 within three years prior to the date on which the
 13 application is submitted.

14 (c) An applicant shall not be ineligible to receive a concealed carry permit under
 15 ~~subdivision (6) of subsection (b) of this section because of involuntary commitment to mental~~
 16 ~~health services if the individual's rights have been restored under G.S. 122C-54.1. Receipt of~~
 17 ~~previous consultative services or outpatient treatment alone shall not disqualify an applicant~~
 18 ~~under any provision of this section.~~"

19 **SECTION 12.** G.S. 14-415.13(a)(5) reads as rewritten:

20 "(a) A person shall apply to the sheriff of the county in which the person resides to
 21 obtain a concealed handgun permit. The applicant shall submit to the sheriff all of the
 22 following:

23 ...

24 (5) A release, in a form to be prescribed by the Administrative Office of the
 25 Courts, that authorizes and requires disclosure to the sheriff of any records
 26 concerning the mental health or capacity of the ~~applicant~~applicant to be
 27 used for the sole purpose of determining whether the applicant is
 28 disqualified for a permit under the provisions of G.S. 14-415.12."

29 **SECTION 13.** G.S. 14-415.14(b) reads as rewritten:

30 "(b) The permit application shall also contain a warning substantially as follows:

31 "CAUTION: Federal law and State law on the possession of handguns and firearms may
 32 differ. If you are prohibited by federal law from possessing a handgun or a firearm, you may be
 33 prosecuted in federal court. A State permit is not a defense to a federal prosecution."

34 **SECTION 14.** G.S. 14-415.15 reads as rewritten:

35 "**§ 14-415.15. Issuance or denial of permit.**

36 (a) Except as permitted under subsection (b) of this section, within ~~90~~45 days after
 37 receipt of the items listed in G.S. 14-415.13 from an applicant, the sheriff shall either issue or
 38 deny the permit. The sheriff may conduct any investigation necessary to determine the
 39 qualification or competency of the person applying for the permit, including record checks.

40 (b) Upon presentment to the sheriff of the items required under G.S. 14-415.13 (a)(1),
 41 (2), and (3), the sheriff may issue a temporary permit for a period not to exceed ~~90~~45 days to a
 42 person who the sheriff reasonably believes is in an emergency situation that may constitute a
 43 risk of safety to the person, the person's family or property. The applicant may submit proof of
 44 a protective order issued under G.S. 50B-3 for the protection of the applicant as evidence of an
 45 emergency situation. The temporary permit may not be renewed and may be revoked by the
 46 sheriff without a hearing.

47 (c) A person's application for a permit shall be denied only if the applicant fails to
 48 qualify under the criteria listed in this Article. If the sheriff denies the application for a permit,
 49 the sheriff shall, within ~~90~~45 days, notify the applicant in writing, stating the grounds for
 50 denial. An applicant may appeal the denial, revocation, or nonrenewal of a permit by
 51 petitioning a district court judge of the district in which the application was filed. The

1 determination by the court, on appeal, shall be upon the ~~facts,~~facts and the law, and the
2 ~~reasonableness of the sheriff's refusal.~~sheriff's refusal shall be sustained only if the sheriff has
3 demonstrated that the applicant is prohibited from receiving or possessing a firearm by a
4 provision of federal or State law, is currently the subject of criminal or other proceedings that
5 could lead to such a prohibition, or otherwise fails to meet the criteria of this section. The
6 determination by the court ~~shall be final~~is an appealable final order."

7 **SECTION 15.** G.S. 14-415.16 reads as rewritten:

8 "**§ 14-415.16. Renewal of permit.**

9 (a) At least 45 days prior to the expiration date of a permit, the sheriff of the county
10 where the permit was issued shall send a written notice to the permittee explaining that the
11 permit is about to expire and including information about the requirements for renewal of the
12 permit. The notice shall be sent by first class mail to the last known address of the permittee.
13 Failure to receive a renewal notice shall not relieve a permittee of requirements imposed in this
14 section for renewal of the permit.

15 (b) The holder of a permit shall apply to renew the permit within the 90-day period
16 prior to its expiration date by filing with the sheriff of the county in which the person resides a
17 renewal form provided by the sheriff's office, ~~a notarized~~an affidavit stating that the permittee
18 remains qualified under the criteria provided in this Article, a newly administered full set of the
19 permittee's fingerprints, and a renewal fee.

20 (c) Upon receipt of the completed renewal ~~application, including the permittee's~~
21 ~~fingerprints,~~application and the appropriate payment of fees, the sheriff shall determine if the
22 permittee remains qualified to hold a permit in accordance with the provisions of
23 G.S. 14-415.12. The permittee's criminal history shall be updated, including with another
24 inquiry of the National Instant Criminal Background Check System (NICS), and the sheriff
25 may waive the requirement of taking another firearms safety and training course. If the
26 permittee applies for a renewal of the permit within the 90-day period prior to its expiration
27 date and if the permittee remains qualified to have a permit under G.S. 14-415.12, the sheriff
28 shall renew the permit. The permit of a permittee who complies with this section shall remain
29 valid beyond the expiration date of the permit until the permittee either receives a renewal
30 permit or is denied a renewal permit by the sheriff.

31 (d) No fingerprints shall be required for a renewal permit if the applicant's fingerprints
32 were submitted to the State Bureau of Investigation after June 30, 2001, on the Automated
33 Fingerprint Information System (AFIS) as prescribed by the State Bureau of Investigation.

34 (e) If the permittee does not apply to renew the permit prior to its expiration date, but
35 does apply to renew the permit within 60 days after the permit expires, the sheriff may waive
36 the requirement of taking another firearms safety and training course. This subsection does not
37 extend the expiration date of the permit."

38 **SECTION 16.** G.S. 14-415.17 reads as rewritten:

39 "**§ 14-415.17. Permit; sheriff to retain and make available to law enforcement agencies a**
40 **list of permittees.**

41 The permit shall be in a certificate form, as prescribed by the Administrative Office of the
42 Courts, that is approximately the size of a North Carolina drivers license. It shall bear the
43 signature, name, address, date of birth, and ~~social security number of the permittee,~~ and the
44 drivers license identification number used in applying for the permit. The sheriff shall maintain
45 a ~~listing~~listing, including the identifying information, of those persons who are issued a ~~permit~~
46 ~~and any pertinent information regarding the issued permit.~~permit. The permit information shall
47 be available upon request to all State and local law enforcement agencies.

48 Within five days of the date a permit is issued, the sheriff shall send a copy of the permit to
49 the State Bureau of Investigation. The State Bureau of Investigation shall make this information
50 available to law enforcement officers and clerks of court on a statewide system."

51 **SECTION 17.** G.S. 14-415.18(a) reads as rewritten:

1 "(a) The sheriff of the county where the permit was issued or the sheriff of the county
2 where the person resides may revoke a permit subsequent to a hearing for any of the following
3 reasons:

- 4 (1) Fraud or intentional ~~or~~ and material misrepresentation in the obtaining of a
5 permit.
- 6 (2) Misuse of a permit, including lending or giving a permit to another person,
7 ~~duplicate~~ materially altering a permit, or using a permit with the intent to
8 unlawfully cause harm to a person or property.
- 9 (3) The doing of an act or existence of a condition which would have been
10 grounds for the denial of the permit by the sheriff.
- 11 (4) The violation of any of the terms of this Article.
- 12 (5) The applicant is adjudicated guilty of or receives a prayer for judgment
13 continued for a crime which would have disqualified the applicant from
14 initially receiving a permit.

15 A permittee may appeal the revocation, or nonrenewal of a permit by petitioning a district
16 court judge of the district in which the applicant resides. The determination by the court, on
17 appeal, shall be upon the ~~facts,~~ facts and the law, and ~~the reasonableness of the sheriff's~~
18 ~~refusal.~~ the sheriff's refusal shall be sustained only if the sheriff demonstrates that the permittee
19 is or has become disqualified for a permit under the terms of this section."

20 **SECTION 18.** G.S. 14-415.21 is repealed.

21 **SECTION 19.** G.S. 14-415.24 reads as rewritten:

22 "**§ 14-415.24. Reciprocity; out-of-state handgun permits.**

23 (a) A valid concealed handgun permit or license issued by another state is valid in
24 ~~North Carolina if that state grants the same right to residents of North Carolina who have valid~~
25 ~~concealed handgun permits issued pursuant to this Article in their possession while carrying~~
26 ~~concealed weapons in that state.~~ North Carolina.

27 (b) ~~The Attorney General shall maintain a registry of states that meet the requirements~~
28 ~~of this section on the North Carolina Criminal Information Network and make the registry~~
29 ~~available to law enforcement officers for investigative purposes.~~

30 (c) Every 12 months after the effective date of this subsection, the Department of
31 Justice shall make written inquiry of the concealed handgun permitting authorities in each other
32 state as to: (i) whether a North Carolina resident may carry a concealed handgun in their state
33 based upon having a valid North Carolina concealed handgun permit and (ii) whether a North
34 Carolina resident may apply for a concealed handgun permit in that state based upon having a
35 valid North Carolina concealed handgun permit. The Department of Justice shall attempt to
36 secure from each state permission for North Carolina residents who hold a valid North Carolina
37 concealed handgun permit to carry a concealed handgun in that state, either on the basis of the
38 North Carolina permit or on the basis that the North Carolina permit is sufficient to permit the
39 issuance of a similar license or permit by the other state."

40 **SECTION 20.** G.S. 50B-3.1 reads as rewritten:

41 "**§ 50B-3.1. Surrender and disposal of firearms; violations; exemptions.**

42 (a) Required Surrender of Firearms. – Upon issuance of an emergency or ex parte order
43 pursuant to this Chapter, the court shall order the defendant to surrender to the sheriff all
44 firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry
45 concealed firearms that are in the care, custody, possession, ownership, or control of the
46 defendant if the court finds any of the following factors:

- 47 (1) The use or threatened use of a deadly weapon by the defendant or a pattern
48 of prior conduct involving the use or threatened use of violence with a
49 firearm against persons.
- 50 (2) Threats to seriously injure or kill the aggrieved party or minor child by the
51 defendant.

1 (3) Threats to commit suicide by the defendant.

2 (4) Serious injuries inflicted upon the aggrieved party or minor child by the
3 defendant.

4 (b) Ex Parte or Emergency Hearing. – The court shall inquire of the plaintiff, at the ex
5 parte or emergency hearing, the presence of, ownership of, or otherwise access to firearms by
6 the defendant, as well as ammunition, permits to purchase firearms, and permits to carry
7 concealed firearms, and include, whenever possible, identifying information regarding the
8 description, number, and location of firearms, ammunition, and permits in the order.

9 (c) Ten-Day Hearing. – The court, at the 10-day hearing, shall inquire of the defendant
10 the presence of, ownership of, or otherwise access to firearms by the defendant, as well as
11 ammunition, permits to purchase firearms, and permits to carry concealed firearms, and
12 include, whenever possible, identifying information regarding the description, number, and
13 location of firearms, ammunition, and permits in the order.

14 (d) Surrender. – Upon service of the order, the defendant shall immediately surrender to
15 the sheriff possession of all firearms, machine guns, ammunition, permits to purchase firearms,
16 and permits to carry concealed firearms that are in the care, custody, possession, ownership, or
17 control of the defendant. In the event that weapons cannot be surrendered at the time the order
18 is served, the defendant shall surrender the firearms, ammunitions, and permits to the sheriff
19 within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the
20 firearms or contract with a licensed firearms dealer to provide storage.

21 (1) If the court orders the defendant to surrender firearms, ammunition, and
22 permits, the court shall inform the plaintiff and the defendant of the terms of
23 the protective order and include these terms on the face of the order,
24 including that the defendant is prohibited from ~~owning,~~ possessing,
25 purchasing, or receiving or attempting to ~~own,~~ possess, purchase, or receive
26 a firearm for so long as the protective order or any successive protective
27 order is in effect. The terms of the order shall include instructions as to how
28 the defendant may request retrieval of any firearms, ammunition, and
29 permits surrendered to the sheriff when the protective order is no longer in
30 effect. The terms shall also include notice of the penalty for violation of
31 G.S. 14-269.8.

32 (2) The sheriff may charge the defendant a reasonable fee for the storage of any
33 firearms and ammunition taken pursuant to a protective order. The fees are
34 payable to the sheriff. The sheriff shall transmit the proceeds of these fees to
35 the county finance officer. The fees shall be used ~~by the sheriff to pay the~~
36 ~~costs of administering this section and for other law enforcement purposes.~~
37 to offset the cost of storage and in no instance may they exceed the actual
38 storage costs. The county shall expend the restricted funds for ~~these purposes~~
39 this purpose only. The sheriff shall not release firearms, ammunition, or
40 permits without a court order granting the release. The defendant must remit
41 all fees owed prior to the authorized return of any firearms, ammunition, or
42 permits. ~~The sheriff shall not incur any civil or criminal liability for alleged~~
43 ~~damage or deterioration due to storage or transportation of any firearms or~~
44 ~~ammunition held pursuant to this section.~~

45 (e) Retrieval. – If the court does not enter a protective order when the ex parte or
46 emergency order ~~expires,~~ expires and does not otherwise find the defendant is precluded from
47 possessing or receiving a firearm pursuant to State or federal law, the court shall enter an order
48 directing the return of any firearms surrendered or seized pursuant to this section to the
49 defendant, and the defendant may retrieve any weapons surrendered to the sheriff ~~unless the~~
50 ~~court finds that the defendant is precluded from owning or possessing a firearm pursuant to~~

~~State or federal law or final disposition of any pending criminal charges committed against the person that is the subject of the current protective order.~~sheriff.

(f) Motion for Return. – The defendant may request the return of any firearms, ammunition, or permits surrendered by filing a motion with the court at the expiration of the current order or final disposition of any pending criminal charges for offenses alleged to have been committed against the person that is the subject of the current protective order and not later than 90 days after the expiration of the current order or final disposition of any such pending criminal ~~charges committed against the person that is the subject of the current protective order.~~charges. Upon receipt of the motion, the court shall schedule a hearing and provide written notice to the plaintiff who shall have the right to appear and be heard and to the sheriff who has control of the firearms, ammunition, or permits. The court shall determine whether the defendant is subject to any State or federal law or court order that precludes the defendant from owning or possessing a firearm. The inquiry shall include:

- (1) Whether the protective order has been renewed.
- (2) Whether the defendant is subject to any other protective orders.
- (3) Whether the defendant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any State law.
- (4) Whether the defendant has any pending criminal charges, in either State or federal court, for offenses alleged to have been committed against the person that is the subject of the current protective order.

The court shall ~~deny the return of firearms, ammunition, or permits if~~ grant the motion unless the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law or ~~if the defendant~~ has any pending criminal charges, in either State or federal court, for offenses alleged to have been committed against the person that is the subject of the current protective order until the final disposition of those charges.

(g) Motion for Return by Third-Party Owner. – A third-party owner of firearms, ammunition, or permits who is otherwise eligible to possess such items may file a motion requesting the return to said third party of any such items in the possession of the sheriff seized as a result of the entry of a domestic violence protective order. The motion must be filed not later than 30 days after the seizure of the items ~~by by, or their surrender to,~~ the sheriff. Upon receipt of the third party's motion, the court shall schedule a hearing and provide written notice to all parties and the sheriff. The court shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or possessing said items pursuant to State or federal law. If the court denies the return of said items to the third party, the items shall be disposed of by the sheriff as provided in subsection (h) of this section.

(h) Disposal of Firearms. – If the defendant does not file a motion requesting the return of any firearms, ammunition, or permits surrendered within the time period prescribed by this section, if the court determines that the defendant is precluded from regaining possession of any firearms, ammunition, or permits surrendered, or if the defendant or third-party owner fails to remit all fees owed for the storage of the firearms or ammunition within 30 days of the entry of the order granting the return of the firearms, ammunition, or permits, the sheriff who has control of the firearms, ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to the court for an order of disposition of the firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the firearms, ammunition, or permits in one or more of the ways authorized by law, including subdivision (4), (4b), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after deducting any costs associated with the sale, and in accordance with all applicable State and federal law, shall be provided to the ~~defendant, if requested by the defendant by motion made before the hearing or at the hearing and if ordered by the judge.~~defendant.

(i) It is unlawful for any person subject to a protective order prohibiting the possession or purchase of firearms ~~to~~ do any of the following:

1 (1) Fail to surrender all firearms, ammunition, permits to purchase firearms, and
2 permits to carry concealed firearms to the sheriff as ordered by the ~~court;~~
3 court.

4 (2) ~~Fail to disclose all information pertaining to the possession of firearms,~~
5 ~~ammunition, and permits to purchase and permits to carry concealed~~
6 ~~firearms as requested by the court; or~~

7 (3) Provide false information to the court pertaining to any of these items.

8 (j) Violations. – In accordance with G.S. 14-269.8, it is unlawful for any person to
9 ~~own,~~ possess, purchase, or receive or attempt to ~~own,~~ possess, purchase, or receive a firearm, as
10 defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry
11 concealed firearms if ordered by the court for so long as that protective order or any successive
12 protective order with a firearm prohibition entered against that person pursuant to this Chapter is
13 in effect. Any defendant violating the provisions of this section shall be guilty of a ~~Class H~~
14 ~~felony.~~ Class 1 misdemeanor.

15 (k) Official Use Exemption. – This section shall not prohibit law enforcement officers
16 and members of any branch of the United States armed forces, not otherwise prohibited under
17 federal law, from possessing or using firearms for official use only.

18 (l) Nothing in this section is intended to limit the discretion of the court in granting
19 additional relief as provided in other sections of this Chapter."

20 **SECTION 21.** G.S. 120-32.1 is amended by adding a new subsection to read:

21 "(c1) No rule adopted under this section shall prohibit the transportation or storage of a
22 firearm in a closed compartment or container within a person's locked vehicle or in a locked
23 container securely affixed to a person's vehicle."

24 **SECTION 22.** G.S. 153A-129 reads as rewritten:

25 "**§ 153A-129. Firearms.**

26 Subject to Article 53C of Chapter 14 of the General Statutes, a A-county may by ordinance
27 regulate, restrict, or prohibit the discharge of firearms at any time or place except when used to
28 take birds or animals pursuant to Chapter 113, Subchapter IV, when used in defense of person
29 or property, or when used pursuant to lawful directions of law-enforcement officers. A-county
30 may also regulate the display of firearms on the public roads, sidewalks, alleys, or other public
31 property. This section does not limit a county's authority to take action under Chapter 14,
32 Article 36A."

33 **SECTION 23.** G.S. 166A-3 reads as rewritten:

34 "**§ 166A-3. Limitations.**

35 Nothing in this Article shall be construed ~~to do any of the following:~~

36 (1) Interfere with dissemination of news or comment on public affairs; but any
37 communications facility or organization, including but not limited to radio
38 and television stations, wire services, and newspapers, may be requested to
39 transmit or print public service messages furnishing information or
40 instructions in connection with an emergency, disaster or ~~war;~~ or war.

41 (2) Limit, modify or abridge ~~modify, or abridge,~~ except as provided in
42 subdivision (3) of this section, the authority of the Governor to proclaim
43 martial law or exercise any other powers vested in him under the
44 Constitution, statutes, or common law of this State independent of, or in
45 conjunction with, any provisions of this Article.

46 (3) Authorize the taking, confiscation, or seizure of otherwise lawfully
47 possessed firearms, ammunition, or components thereof or to authorize the
48 imposition of any additional restriction or prohibition on the possession,
49 carrying, transportation, sale, purchase, storage, or use of lawfully possessed
50 firearms, ammunition, or ammunition components during a proclaimed state
51 of disaster or martial law."

1 **SECTION 24.** G.S. 160A-189 reads as rewritten:

2 "**§ 160A-189. Firearms.**

3 Subject to Article 53C of Chapter 14 of the General Statutes, a ~~A~~-city may by ordinance
4 regulate, restrict, or prohibit the discharge of firearms at any time or place within the city
5 except when used in defense of person or property or pursuant to lawful directions of
6 law-enforcement officers, ~~and may regulate the display of firearms on the streets, sidewalks,~~
7 ~~alleys, or other public property. Nothing in this section shall be construed to limit a city's~~
8 ~~authority to take action under Article 36A of Chapter 14 of the General Statutes.~~officers."

9 **SECTION 25.** This act becomes effective December 1, 2011, and applies to
10 offenses committed on or after that date.