

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 679  
Judiciary II Committee Substitute Adopted 6/7/11

Short Title: Castle Doctrine/Amend Firearms Laws.

(Public)

Sponsors:

Referred to:

April 20, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE CASTLE DOCTRINE, TO ALLOW PERSONS WITH  
3 CONCEALED HANDGUN PERMITS TO CARRY A HANDGUN IN A PARK, AND  
4 TO AUTHORIZE DISTRICT ATTORNEYS, ASSISTANT DISTRICT ATTORNEYS,  
5 OR THEIR INVESTIGATORS WHO HAVE A VALID CONCEALED HANDGUN  
6 PERMIT TO CARRY A CONCEALED WEAPON ON CERTAIN PREMISES OR IN  
7 CERTAIN CIRCUMSTANCES.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Article 14 of Chapter 14 of the General Statutes is amended by  
10 adding the following new sections to read:

11 "**§ 14-51.2. Home, workplace, and motor vehicle protection; presumption of fear of death**  
12 **or serious bodily harm.**

13 (a) The following definitions apply in this section:

14 (1) Home. – A building or conveyance of any kind, to include its curtilage,  
15 whether the building or conveyance is temporary or permanent, mobile or  
16 immobile, which has a roof over it, including a tent, and is designed as a  
17 temporary or permanent residence.

18 (2) Law enforcement officer. – Any person employed or appointed as a  
19 full-time, part-time, or auxiliary law enforcement officer, correctional  
20 officer, probation officer, post-release supervision officer, or parole officer.

21 (3) Motor vehicle. – As defined in G.S. 20-4.01(23).

22 (4) Workplace. – A building or conveyance of any kind, whether the building or  
23 conveyance is temporary or permanent, mobile or immobile, which has a  
24 roof over it, including a tent, which is being used for commercial purposes.

25 (b) The lawful occupant of a home, motor vehicle, or workplace is presumed to have  
26 held a reasonable fear of imminent death or serious bodily harm to himself or herself or another  
27 when using defensive force that is intended or likely to cause death or serious bodily harm to  
28 another if both of the following apply:

29 (1) The person against whom the defensive force was used was in the process of  
30 unlawfully and forcefully entering, or had unlawfully and forcibly entered, a  
31 home, motor vehicle, or workplace, or if that person had removed or was  
32 attempting to remove another against that person's will from the home,  
33 motor vehicle, or workplace.

34 (2) The person who uses defensive force knew or had reason to believe that an  
35 unlawful and forcible entry or unlawful and forcible act was occurring or  
36 had occurred.



1       (c) The presumption set forth in subsection (b) of this section shall be rebuttable and  
2 does not apply in any of the following circumstances:

3           (1) The person against whom the defensive force is used has the right to be in or  
4 is a lawful resident of the home, motor vehicle, or workplace, such as an  
5 owner or lessee, and there is not an injunction for protection from domestic  
6 violence or a written pretrial supervision order of no contact against that  
7 person.

8           (2) The person sought to be removed from the home, motor vehicle, or  
9 workplace is a child or grandchild or is otherwise in the lawful custody or  
10 under the lawful guardianship of the person against whom the defensive  
11 force is used.

12           (3) The person who uses defensive force is engaged in, attempting to escape  
13 from, or using the home, motor vehicle, or workplace to further any criminal  
14 offense that involves the use or threat of physical force or violence against  
15 any individual.

16           (4) The person against whom the defensive force is used is a law enforcement  
17 officer who enters or attempts to enter a home, motor vehicle, or workplace  
18 in the lawful performance of his or her official duties, and the officer  
19 identified himself or herself in accordance with any applicable law or the  
20 person using force knew or reasonably should have known that the person  
21 entering or attempting to enter was a law enforcement officer in the lawful  
22 performance of his or her official duties.

23           (5) The person against whom the defensive force is used (i) has discontinued all  
24 efforts to unlawfully and forcefully enter the home, motor vehicle, or  
25 workplace and (ii) has exited the home, motor vehicle, or workplace.

26       (d) A person who unlawfully and by force enters or attempts to enter a person's home,  
27 motor vehicle, or workplace is presumed to be doing so with the intent to commit an unlawful  
28 act involving force or violence.

29       (e) A person who uses force as permitted by this section is justified in using such force  
30 and is immune from civil or criminal liability for the use of such force, unless the person  
31 against whom force was used is a law enforcement officer who was lawfully acting in the  
32 performance of his or her official duties and the officer identified himself or herself in  
33 accordance with any applicable law or the person using force knew or reasonably should have  
34 known that the person was a law enforcement officer in the lawful performance of his or her  
35 official duties.

36       (f) A lawful occupant within his or her home, motor vehicle, or workplace does not  
37 have a duty to retreat from an intruder in the circumstances described in this section.

38       (g) This section is not intended to repeal or limit any other defense that may exist under  
39 the common law.

40 **§ 14-51.3. Use of force in defense of person; relief from criminal or civil liability.**

41       (a) A person is justified in using force, except deadly force, against another when and to  
42 the extent that the person reasonably believes that the conduct is necessary to defend himself or  
43 herself or another against the other's imminent use of unlawful force. However, a person is  
44 justified in the use of deadly force and does not have a duty to retreat in any place he or she has  
45 the lawful right to be if either of the following applies:

46           (1) He or she reasonably believes that such force is necessary to prevent  
47 imminent death or great bodily harm to himself or herself or another.

48           (2) Under the circumstances permitted pursuant to G.S. 14-51.2.

49       (b) A person who uses force as permitted by this section is justified in using such force  
50 and is immune from civil or criminal liability for the use of such force unless the person against  
51 whom force was used is a law enforcement officer who was lawfully acting in the performance

1 of his or her official duties and the officer identified himself or herself in accordance with any  
2 applicable law or the person using force knew or reasonably should have known that the person  
3 was a law enforcement officer in the lawful performance of his or her official duties."

4 **SECTION 2.** G.S. 14-51.1 is repealed.

5 **SECTION 3.** G.S. 14-269 reads as rewritten:

6 **"§ 14-269. Carrying concealed weapons.**

7 (a) It shall be unlawful for any person willfully and intentionally to carry concealed  
8 about his person any bowie knife, dirk, dagger, slung shot, loaded cane, metallic knuckles,  
9 razor, shurikin, stun gun, or other deadly weapon of like kind, except when the person is on the  
10 person's own premises.

11 (a1) It shall be unlawful for any person willfully and intentionally to carry concealed  
12 about his person any pistol or gun except in the following circumstances:

13 (1) The person is on the person's own premises.

14 (2) The deadly weapon is a handgun, ~~and~~ the person has a concealed handgun  
15 permit issued in accordance with Article 54B of this Chapter or considered  
16 valid under ~~G.S. 14-415.24~~, G.S. 14-415.24, and the person is carrying the  
17 concealed handgun in accordance with the scope of the concealed handgun  
18 permit as set out in G.S. 14-415.11(c).

19 (3) The deadly weapon is a handgun and the person is a military permittee as  
20 defined under G.S. 14-415.10(2a) who provides to the law enforcement  
21 officer proof of deployment as required under G.S. 14-415.11(a).

22 (b) This prohibition shall not apply to the following persons:

23 (1) Officers and enlisted personnel of the armed forces of the United States  
24 when in discharge of their official duties as such and acting under orders  
25 requiring them to carry arms and weapons;

26 (2) Civil and law enforcement officers of the United States;

27 (3) Officers and soldiers of the militia and the National Guard when called into  
28 actual service;

29 (4) Officers of the State, or of any county, city, town, or company police agency  
30 charged with the execution of the laws of the State, when acting in the  
31 discharge of their official duties;

32 (4a) Any person who is a district attorney, an assistant district attorney, or an  
33 investigator employed by the office of a district attorney and who has a  
34 concealed handgun permit issued in accordance with Article 54B of this  
35 Chapter or considered valid under G.S. 14-415.24; provided that the person  
36 shall not carry a concealed weapon at any time while in a courtroom or while  
37 consuming alcohol or an unlawful controlled substance or while alcohol or  
38 an unlawful controlled substance remains in the person's body. The district  
39 attorney, assistant district attorney, or investigator shall secure the weapon in  
40 a locked compartment when the weapon is not on the person of the district  
41 attorney, assistant district attorney, or investigator;

42 (5) Sworn law-enforcement officers, when off-duty, provided that an officer  
43 does not carry a concealed weapon while consuming alcohol or an unlawful  
44 controlled substance or while alcohol or an unlawful controlled substance  
45 remains in the officer's body.

46 (b1) It is a defense to a prosecution under this section that:

47 (1) The weapon was not a firearm;

48 (2) The defendant was engaged in, or on the way to or from, an activity in which  
49 he legitimately used the weapon;

50 (3) The defendant possessed the weapon for that legitimate use; and

1 (4) The defendant did not use or attempt to use the weapon for an illegal  
2 purpose.

3 The burden of proving this defense is on the defendant.

4 (b2) It is a defense to a prosecution under this section that:

5 (1) The deadly weapon is a handgun;

6 (2) The defendant is a military permittee as defined under G.S. 14-415.10(2a);  
7 and

8 (3) The defendant provides to the court proof of deployment as defined under  
9 G.S. 14-415.10(3a).

10 (c) Any person violating the provisions of subsection (a) of this section shall be guilty  
11 of a Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this  
12 section shall be guilty of a Class 2 misdemeanor for the first offense. A second or subsequent  
13 offense is punishable as a Class I felony.

14 (d) This section does not apply to an ordinary pocket knife carried in a closed position.  
15 As used in this section, "ordinary pocket knife" means a small knife, designed for carrying in a  
16 pocket or purse, that has its cutting edge and point entirely enclosed by its handle, and that may  
17 not be opened by a throwing, explosive, or spring action."

18 **SECTION 4.** G.S. 14-415.11 reads as rewritten:

19 **"§ 14-415.11. Permit to carry concealed handgun; scope of permit.**

20 (a) Any person who has a concealed handgun permit may carry a concealed handgun  
21 unless otherwise specifically prohibited by law. The person shall carry the permit together with  
22 valid identification whenever the person is carrying a concealed handgun, shall disclose to any  
23 law enforcement officer that the person holds a valid permit and is carrying a concealed  
24 handgun when approached or addressed by the officer, and shall display both the permit and the  
25 proper identification upon the request of a law enforcement officer. In addition to these  
26 requirements, a military permittee whose permit has expired during deployment may carry a  
27 concealed handgun during the 90 days following the end of deployment and before the permit  
28 is renewed provided the permittee also displays proof of deployment to any law enforcement  
29 officer.

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

33 (c) ~~A-Except as provided in G.S. 14-415.27, a~~ permit does not authorize a person to  
34 carry a concealed handgun in the areas prohibited by G.S. 14-269.2, 14-269.3, 14-269.4, and  
35 14-277.2, in an area prohibited by rule adopted under G.S. 120-32.1, in any area prohibited by  
36 18 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, where notice that carrying a concealed handgun is prohibited by the  
41 posting of a conspicuous notice or statement by the person in legal possession or control of the  
42 premises.

43 (c1) Any person who has a concealed handgun permit may carry a concealed handgun on  
44 the grounds or waters of a park within the State Parks System as defined in G.S. 113-44.9.

45 (c2) It shall be unlawful for a person, with or without a permit, to carry a concealed  
46 handgun while consuming alcohol or at any time while the person has remaining in his body  
47 any alcohol or in his blood a controlled substance previously consumed, but a person does not  
48 violate this condition if a controlled substance in his blood was lawfully obtained and taken in  
49 therapeutically appropriate amounts.

50 (d) A person who is issued a permit shall notify the sheriff who issued the permit of any  
51 change in the person's permanent address within 30 days after the change of address. If a permit

1 is lost or destroyed, the person to whom the permit was issued shall notify the sheriff who  
2 issued the permit of the loss or destruction of the permit. A person may obtain a duplicate  
3 permit by submitting to the sheriff a notarized statement that the permit was lost or destroyed  
4 and paying the required duplicate permit fee."

5 **SECTION 5.** G.S. 14-415.23 reads as rewritten:

6 "**§ 14-415.23. Statewide uniformity.**

7 It is the intent of the General Assembly to prescribe a uniform system for the regulation of  
8 legally carrying a concealed handgun. To insure uniformity, no political subdivisions, boards,  
9 or agencies of the State nor any county, city, municipality, municipal corporation, town,  
10 township, village, nor any department or agency thereof, may enact ordinances, rules, or  
11 regulations concerning legally carrying a concealed handgun. A unit of local government may  
12 adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun,  
13 in accordance with G.S. 14-415.11(c), on local government ~~buildings, their appurtenant~~  
14 ~~premises, and parks.~~ buildings and their appurtenant premises. A unit of local government may  
15 adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal  
16 and county recreational facilities that are specifically identified by the unit of local government.  
17 If a unit of local government adopts such an ordinance with regard to recreational facilities,  
18 then the concealed handgun permittee may, nevertheless, secure the handgun in a locked  
19 vehicle within the trunk, glove box, or other enclosed compartment or area within or on the  
20 motor vehicle. For purposes of this section, the term "recreational facilities" includes only the  
21 following: a playground, an athletic field, a swimming pool, and an athletic facility."

22 **SECTION 6.** Article 54B of Chapter 14 of the General Statutes is amended by  
23 adding a new section to read:

24 "**§ 14-415.27. Expanded permit scope for district attorneys, assistant district attorneys,**  
25 **and investigators employed by office of the district attorney.**

26 Notwithstanding G.S. 14-415.11(c), any person who is a district attorney, an assistant  
27 district attorney, or an investigator employed by the office of a district attorney and who has a  
28 concealed handgun permit issued pursuant to this Article or that is considered valid under  
29 G.S. 14-415.24 is not subject to the restrictions and prohibitions set out in G.S. 14-415.11(c)  
30 and may carry a concealed handgun in the areas listed in G.S. 14-415.11(c) unless otherwise  
31 prohibited by federal law."

32 **SECTION 7.** This act becomes effective December 1, 2011, and applies to  
33 offenses committed on or after that date. Prosecutions for offenses committed before the  
34 effective date of this act are not abated or affected by this act, and the statutes that would be  
35 applicable but for this act remain applicable to those prosecutions.