

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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HOUSE BILL 345

Short Title: Omnibus Firearms Bill. (Public)

Sponsors: Representatives Speciale, Pittman, Brody, and Boswell (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

March 15, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS AMENDMENTS TO THE CONCEALED HANDGUN LAWS.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 14-269.2(a)(1) reads as rewritten:

5 "**§ 14-269.2. Weapons on campus or other educational property.**

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

7 (1) Educational property. – Any school building or bus, school campus, grounds,
8 recreational area, athletic field, or other property owned, used, or operated by
9 any board of education or school board of trustees, or directors for the
10 administration of any school. The term shall not include any of the following:
11 (i) land buildings or other facilities owned, leased, or otherwise controlled by
12 educational institutions but not used primarily for educational purposes; (ii) a
13 religious institution for which facilities are used as a school on a part-time
14 basis, provided such facilities are not currently in use as a school; (iii) a road or
15 other publicly used thoroughfare which crosses an educational campus; or (iv) a
16 medical facility for which the primary purpose is patient care rather than
17 education."

18 **SECTION 2.** G.S. 14-269.2 is amended by adding a new subsection to read:

19 "(b2) Restrictions on extracurricular activities listed in subsection (b) of this section do not
20 apply to persons not participating in the extracurricular activity provided the extracurricular
21 activity is conducted in a public place, including, but not limited to, a restaurant, public park, or
22 museum."

23 **SECTION 3.** G.S. 14-269.2(g) reads as rewritten:

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

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

29 (1a) ~~A person exempted by the provisions of G.S. 14-269(b).~~

30 (1b) A person exempted by the provisions of G.S. 14-269(b)(1), (2),(3),(4), or (5).

31"

32 **SECTION 4.** G.S. 14-269.4 reads as rewritten:

33 "**§ 14-269.4. Weapons on certain State property and in courthouses.**

34 It shall be unlawful for any person to possess, or carry, whether openly or concealed, any
35 deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in



1 the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on
2 the grounds of any of these buildings, and in any building housing any court of the General Court
3 of Justice. If a court is housed in a building containing nonpublic uses in addition to the court, then
4 this prohibition shall apply only to that portion of the building used for court purposes while the
5 building is being used for court purposes.

6 This section shall not apply to any of the following:

7 (1) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997.

8 (1a) A person exempted by the provisions of G.S. 14-269(b).

9 (2) through (4) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,

10 (2b) The Governor and the Governor's immediate family if the property is the
11 Executive Mansion or the Western Residence of the Governor.

12"

13 **SECTION 5.** G.S. 14-404(e1)(5) is repealed.

14 **SECTION 6.** G.S. 14-415.10 reads as rewritten:

15 **"§ 14-415.10. Definitions.**

16 The following definitions apply to this Article:

17 ...

18 (4) Qualified former sworn law enforcement officer. – An individual who retired
19 from service as a law enforcement officer with a local, State, campus police, or
20 company police agency in North Carolina, other than for reasons of mental
21 disability, who has been retired as a sworn law enforcement officer ~~two~~five
22 years or less from the date of the permit application, and who satisfies all of the
23 following:

24 a. Immediately before retirement, the individual was a qualified law
25 enforcement officer with a local, State, or company police agency in
26 North Carolina.

27 b. The individual has a nonforfeitable right to benefits under the retirement
28 plan of the local, State, or company police agency as a law enforcement
29 officer; or has 20 or more aggregate years of law enforcement service
30 and has retired from a company police agency that does not have a
31 retirement plan; or has 20 or more aggregate years of part-time or
32 auxiliary law enforcement service.

33 c. The individual is not prohibited by State or federal law from receiving a
34 firearm.

35 (4a) Qualified retired correctional officer. – An individual who retired from service
36 as a State correctional officer, other than for reasons of mental disability, who
37 has been retired as a correctional officer ~~two~~five years or less from the date of
38 the permit application and who meets all of the following criteria:

39 a. Immediately before retirement, the individual met firearms training
40 standards of the Division of Adult Correction of the Department of
41 Public Safety and was authorized by the Division of Adult Correction of
42 the Department of Public Safety to carry a handgun in the course of
43 assigned duties.

44 b. The individual retired in good standing and was never a subject of a
45 disciplinary action by the Division of Adult Correction of the
46 Department of Public Safety that would have prevented the individual
47 from carrying a handgun.

48 c. The individual has a vested right to benefits under the Teachers' and
49 State Employees' Retirement System of North Carolina established
50 under Article 1 of Chapter 135 of the General Statutes.

- 1 d. The individual is not prohibited by State or federal law from receiving a
2 firearm.
- 3 (4b) Qualified retired law enforcement officer. – An individual who meets the
4 definition of "qualified retired law enforcement officer" contained in section
5 926C of Title 18 of the United States Code.
- 6 (4c) Qualified retired probation or parole certified officer. – An individual who
7 retired from service as a State probation or parole certified officer, other than
8 for reasons of mental disability, who has been retired as a probation or parole
9 certified officer ~~two~~five years or less from the date of the permit application
10 and who meets all of the following criteria:
- 11 a. Immediately before retirement, the individual met firearms training
12 standards of the Division of Adult Correction of the Department of
13 Public Safety and was authorized by the Division of Adult Correction of
14 the Department of Public Safety to carry a handgun in the course of
15 duty.
- 16 b. The individual retired in good standing and was never a subject of a
17 disciplinary action by the Division of Adult Correction of the
18 Department of Public Safety that would have prevented the individual
19 from carrying a handgun.
- 20 c. The individual has a vested right to benefits under the Teachers' and
21 State Employees' Retirement System of North Carolina established
22 under Article 1 of Chapter 135 of the General Statutes.
- 23 d. The individual is not prohibited by State or federal law from receiving a
24 firearm.
- 25 (5) Qualified sworn law enforcement officer. – A law enforcement officer
26 employed by a local, State, campus police, or company police agency in North
27 Carolina who satisfies all of the following:
- 28 a. The individual is authorized by the agency to carry a handgun in the
29 course of duty.
- 30 b. The individual is not the subject of a disciplinary action by the agency
31 that prevents the carrying of a handgun.
- 32 c. The individual meets the requirements established by the agency
33 regarding handguns."

34 **SECTION 7.** G.S. 14-415.11(b) reads as rewritten:

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

38 **SECTION 8.** G.S. 14-415.12(b)(7) reads as rewritten:

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

- 40 ...
- 41 (7) Is or has been discharged from the Armed Forces of the United States under
42 ~~conditions other than honorable.~~dishonorable conditions."

43 **SECTION 9.(a)** G.S. 120-32.1 is amended by adding the following subsections to
44 read:

45 "(c2) No rule adopted under this section shall prohibit a legislator or legislative employee
46 who has a concealed handgun permit issued in accordance with Article 54B of Chapter 14 of the
47 General Statutes, or considered valid under G.S. 14-415.24, from carrying a concealed handgun on
48 the premises of the State legislative buildings and grounds. The Legislative Services Commission
49 may adopt a rule requiring a legislator or a legislative employee to provide notice to the Chief of
50 the General Assembly Special Police, or the Chief's designee, before carrying the handgun on the
51 premises of the State legislative buildings and grounds; however, once initial notice is provided as

1 required by this subsection, no subsequent notification shall be required. The Legislative Services
2 Commission may also adopt rules establishing a procedure for such notification.

3 (c3) Notwithstanding subsection (c2) of this section, the Legislative Services Commission
4 may adopt a rule prohibiting or regulating the carrying of a firearm openly or concealed in the
5 Gallery of the State legislative building."

6 **SECTION 9.(b)** G.S. 14-415.11(c)(3) reads as rewritten:

7 "(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry a
8 concealed handgun in any of the following:

9 ...

10 (3) In an area prohibited by rule adopted under ~~G.S. 120-32.1~~G.S. 120-32.1,
11 except that a legislator or legislative employee who has a concealed handgun
12 permit issued in accordance with Article 54B of Chapter 14 of the General
13 Statutes, or considered valid under G.S. 14-415.24, may carry a concealed
14 handgun on the premises of the State legislative buildings and grounds as
15 defined in G.S. 120-32.1(d); provided he or she complies with any notice
16 requirement adopted by the Legislative Services Commission."

17 **SECTION 10.** G.S. 14-269.1 reads as rewritten:

18 **"§ 14-269.1. Confiscation and disposition of deadly weapons.**

19 Upon conviction of any person for violation of G.S. 14-269, G.S. 14-269.7, or any other
20 offense involving the use of a deadly weapon of a type referred to in G.S. 14-269, the deadly
21 weapon with reference to which the defendant shall have been convicted shall be ordered
22 confiscated and disposed of by the presiding judge at the trial ~~in one of the following ways in the~~
23 ~~discretion of the presiding judge as provided in subdivision (1) of this section. If the owner of the~~
24 weapon is the convicted defendant, then the weapon shall be disposed of as provided by
25 subdivisions (4) through (6) of this section in the discretion of the presiding judge:

26 (1) By ordering the weapon returned to its rightful owner, but only when such
27 owner is a person other than the defendant and has filed a petition for the
28 recovery of such weapon with the presiding judge at the time of the defendant's
29 conviction, and upon a finding by the presiding judge that petitioner is entitled
30 to possession of same and that he was unlawfully deprived of the same without
31 his consent.

32 (2), (3) Repealed by Session Laws 1994, Ex. Sess., c. 16, s. 2.

33 (4) By ordering such weapon turned over to the sheriff of the county in which the
34 trial is held or his duly authorized agent to be destroyed if the firearm does not
35 have a legible, unique identification number or is unsafe for use because of
36 wear, damage, age, or modification. The sheriff shall maintain a record of the
37 destruction thereof.

38 (4a) Repealed by Session Laws 2005-287, s. 3, effective August 22, 2005.

39 (4b) By ordering the weapon turned over to a law enforcement agency in the county
40 of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the
41 agency to a federally licensed firearm dealer in accordance with all applicable
42 State and federal firearm laws. The court may order a disposition of the firearm
43 pursuant to this subdivision only upon the written request of the head or chief
44 of the law enforcement agency or a designee of the head or chief of the law
45 enforcement agency and only if the firearm has a legible, unique identification
46 number. If the law enforcement agency sells the firearm, then the proceeds of
47 the sale shall be remitted to the appropriate county finance officer as provided
48 by G.S. 115C-452 to be used to maintain free public schools. The receiving law
49 enforcement agency shall maintain a record and inventory of all firearms
50 received pursuant to this subdivision.

1 (5) By ordering such weapon turned over to the North Carolina State Crime
2 Laboratory's weapons reference library for official use by that agency. The
3 Laboratory shall maintain a record and inventory of all such weapons received.

4 (6) By ordering such weapons turned over to the North Carolina Justice Academy
5 for official use by that agency. The North Carolina Justice Academy shall
6 maintain a record and inventory of all such weapons received."

7 **SECTION 11.** G.S. 15-11.1 reads as rewritten:

8 **"§ 15-11.1. Seizure, custody and disposition of articles; exceptions.**

9 (a) If a law-enforcement officer seizes property pursuant to lawful authority, he shall
10 safely keep the property under the direction of the court or magistrate as long as necessary to
11 assure that the property will be produced at and may be used as evidence in any trial. Upon
12 application by the lawful owner or a person, firm or corporation entitled to possession or upon his
13 own determination, the district attorney may release any property seized pursuant to his lawful
14 authority if he determines that such property is no longer useful or necessary as evidence in a
15 criminal trial and he is presented with satisfactory evidence of ownership. If the district attorney
16 refuses to release such property, the lawful owner or a person, firm or corporation entitled to
17 possession may make application to the court for return of the property. The court, after notice to
18 all parties, including the defendant, and after hearing, may in its discretion order any or all of the
19 property returned to the lawful owner or a person, firm or corporation entitled to possession. The
20 court may enter such order as may be necessary to assure that the evidence will be available for
21 use as evidence at the time of trial, and will otherwise protect the rights of all parties.
22 Notwithstanding any other provision of law, photographs or other identification or analyses made
23 of the property may be introduced at the time of the trial provided that the court determines that
24 the introduction of such substitute evidence is not likely to substantially prejudice the rights of the
25 defendant in the criminal trial.

26 (b) In the case of unknown or unapprehended defendants or of defendants willfully absent
27 from the jurisdiction, the court shall determine whether an attorney should be appointed as
28 guardian ad litem to represent and protect the interest of such unknown or absent defendants.
29 Appointment shall be in accordance with rules adopted by the Office of Indigent Defense
30 Services. The judicial findings concerning identification or value that are made at such hearing
31 whereby property is returned to the lawful owner or a person, firm, or corporation entitled to
32 possession, may be admissible into evidence at the trial. After final judgment all property lawfully
33 seized by or otherwise coming into the possession of law-enforcement authorities shall be
34 disposed of as the court or magistrate in its discretion orders, and may be forfeited and either sold
35 or destroyed in accordance with due process of law.

36 (b1) Notwithstanding subsections (a) and (b) of this section or any other provision of law, if
37 the property seized is a firearm and the district attorney determines the firearm is no longer
38 necessary or useful as evidence in a criminal trial, the district attorney, after notice to all parties
39 known or believed by the district attorney to have an ownership or a possessory interest in the
40 firearm, including the defendant, shall apply to the court for an order of disposition of the firearm.
41 The judge, after hearing, ~~may shall~~ order the disposition of the firearm as provided in subdivision
42 (1) of this subsection unless the rightful owner is the defendant. If the rightful owner is the
43 defendant, then the judge may order the disposition of the firearm in one of the following
44 ways:ways described by subdivisions (2) through (4) of this subsection:

45 (1) By ordering the firearm returned to its rightful owner, when the rightful owner
46 is someone other than the defendant and upon findings by the court (i) that the
47 person, firm, or corporation determined by the court to be the rightful owner is
48 entitled to possession of the firearm and (ii) that the person, firm, or corporation
49 determined by the court to be the rightful owner of the firearm was unlawfully
50 deprived of the same or had no knowledge or reasonable belief of the
51 defendant's intention to use the firearm unlawfully.

- 1 (2) By ordering the firearm returned to the defendant, but only if the defendant is
2 not convicted of any criminal offense in connection with the possession or use
3 of the firearm, the defendant is the rightful owner of the firearm, and the
4 defendant is not otherwise ineligible to possess such firearm.
- 5 (3) By ordering the firearm turned over to be destroyed by the sheriff of the county
6 in which the firearm was seized or by his duly authorized agent if the firearm
7 does not have a legible, unique identification number or is unsafe for use
8 because of wear, damage, age, or modification. The sheriff shall maintain a
9 record of the destruction of the firearm.
- 10 (4) By ordering the firearm turned over to a law enforcement agency in the county
11 of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the
12 agency to a federally licensed firearm dealer in accordance with all applicable
13 State and federal firearm laws. The court may order a disposition of the firearm
14 pursuant to this subdivision only if the firearm has a legible, unique
15 identification number. If the law enforcement agency sells the firearm, then the
16 proceeds of the sale shall be remitted to the appropriate county finance officer
17 as provided by G.S. 115C-452 to be used to maintain free public schools. The
18 receiving law enforcement agency shall maintain a record and inventory of all
19 firearms received pursuant to this subdivision.

20 This subsection (b1) is not applicable to seizures pursuant to G.S. 113-137 of firearms used
21 only in connection with a violation of Article 22 of Chapter 113 of the General Statutes or any
22 local wildlife hunting ordinance.

23 (c) Any property, the forfeiture and disposition of which is specified in any general or
24 special law, shall be disposed of in accordance therewith."

25 **SECTION 12.** Article 35 of Chapter 14 of the General Statutes is amended by adding
26 a new section to read:

27 "**§ 14-277.6. Going armed to the terror of the people.**

28 (a) A person who arms himself or herself with an unusual and dangerous weapon for the
29 purpose of terrifying others and goes about on public highways in a manner to cause terror to the
30 people is guilty of a Class 1 misdemeanor.

31 (b) No person shall be convicted of a violation of subsection (a) of this section based only
32 on the person's possession or carrying of a handgun, whether openly or concealed."

33 **SECTION 13.** This act becomes effective September 1, 2017. Sections 5, 7, and 8
34 apply to permits issued on or after September 1, 2017.