

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 163

Short Title: Concealed Weapon Permit.

(Public)

Sponsors: Representatives Joye; Flaherty, Lemmond, and Nichols.

Referred to: Judiciary I.

February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO ALLOW PERSONS TO OBTAIN A PERMIT TO CARRY A CONCEALED WEAPON AFTER MEETING CERTAIN QUALIFICATIONS, TO CREATE CERTAIN MISDEMEANOR OFFENSES RELATED TO CONCEALED WEAPONS PERMITS, AND TO INCREASE THE PUNISHMENT FOR THE CURRENT OFFENSE OF CARRYING CONCEALED WEAPONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding the following new section to read:

"§ 14-269.5. Permit to carry concealed weapon.

(a) Definition. For purposes of this section, 'concealed weapon' means a handgun.

(b) Issuance of Permit. The sheriff shall issue a permit to carry a concealed weapon to persons qualified as provided in subsection (c) of this section. The sheriff shall act on the request for a permit within 30 days unless the person desires weapon training. The permit shall be valid throughout the State for a period of two years from the date of issuance. The permittee shall carry the permit and valid identification at all times in which the permittee is in actual possession of a concealed weapon and shall display the permit and valid identification upon demand by a law enforcement officer.

(c) Qualifications. The sheriff shall determine whether or not a person is qualified to carry a concealed weapon. To be qualified to carry a concealed weapon, a person shall meet all of the following requirements:

(1) Be at least 21 years of age.

(2) Has been a resident of the State for at least 90 days.

- 1 (3) Does not have a prior commitment to a mental institution.
2 (4) Is not prohibited by law from receiving, possessing, or transporting
3 any weapon.
4 (5) Demonstrates proficiency in the use of the weapon or the sheriff
5 determines that the person has sufficient training and experience to
6 demonstrate proficiency.
7 (6) Has not been indicted for or convicted of a felony and does not have
8 proceedings pending for or a conviction of a forcible misdemeanor.
9 (7) Has not been convicted of an offense involving impaired driving as
10 defined under G.S. 20-4.01(24a).

11 The sheriff may conduct any investigation necessary to determine the qualifications or
12 competency of the person desiring the permit, including fingerprints and record checks.

13 (d) Training Documentation. An applicant may demonstrate proficiency in the
14 use of a weapon by providing to the sheriff a photocopy of a certificate or document
15 showing completion of a hunter safety course, military discharge or DD-214, law
16 enforcement training, or a notarized statement from a range master or firearms
17 instructor stating that the applicant is familiar with the safe and proper operation of a
18 firearm. The sheriff shall instruct the applicant as to the lawful use and responsibilities
19 related to the carrying and use of weapons.

20 (e) Appeal From Denial of Permit. A person may appeal the denial of a permit to
21 carry a concealed weapon by filing a petition to the chief judge of the district court for
22 the district in which the request was made. The determination by the judge shall be
23 final.

24 (f) Renewal. A person may renew the permit to carry a concealed weapon every
25 two years if the person remains qualified under this section.

26 (g) Fees. A fee of twenty-five dollars (\$25.00) shall be paid to obtain a permit to
27 carry a concealed weapon. A fee of fifteen dollars (\$15.00) shall be paid to renew the
28 permit. A fee of fifty dollars (\$50.00) shall be paid for weapon training. All fees under
29 this subsection shall be paid to and retained by the sheriff's department.

30 (h) Revocation. A permit issued under this section shall be revoked if the
31 permittee:

- 32 (1) Becomes ineligible under the criteria set forth in subsection (c) of this
33 section.
34 (2) Develops or sustains a physical infirmity which prevents the safe
35 handling of a weapon or firearm.
36 (3) Is convicted of a felony which would make the permittee ineligible to
37 possess a firearm.
38 (4) Is found guilty of a crime relating to controlled substances.
39 (5) Is committed as an alcoholic or controlled substances abuser.
40 (6) Is adjudicated an incompetent person.
41 (7) Is committed to a mental institution.

42 (i) Offenses. A person who commits any of the following shall be guilty of a
43 general misdemeanor and punished as provided under G.S. 14-3:

- 1 (1) Gives false information to obtain a concealed weapon permit under
 2 this section.
 3 (2) Possesses and uses a concealed weapon permit which has been
 4 revoked.
 5 (3) Fails to have in his possession a valid permit whenever actually
 6 carrying a concealed weapon granted under authority of this section.
 7 (4) Intentionally alters or counterfeits a concealed weapon permit.
 8 (5) Sells, gives, or transfers to another person a concealed weapon permit.
 9 (j) Construction. This section shall not be construed to require a person who may
 10 carry a concealed weapon under the provisions of G.S. 14-269(b) to obtain a concealed
 11 weapon permit. This section shall not be construed to affect the right of a person to
 12 carry a concealed weapon under the authority of other statutes and case law. This
 13 section shall not be construed to allow a person who has a concealed weapon permit to
 14 carry or possess a concealed weapon in the areas prohibited by G.S. 14-269.2, 14-269.3,
 15 14-269.4, 14-277.2, or any areas prohibited by cities and counties."

16 Sec. 2. G.S. 14-269, as amended by Section 163 of Chapter 539 of the 1993
 17 Session Laws, reads as rewritten:

18 **"§ 14-269. Carrying concealed weapons.**

19 (a) ~~It~~ Except as provided in G.S. 14-269.5, it shall be unlawful for any person,
 20 except when on his own premises, willfully and intentionally to carry concealed about
 21 his person any bowie knife, dirk, dagger, slung shot, loaded cane, metallic knuckles,
 22 razor, shurikin, stun gun, pistol, gun or other deadly weapon of like kind. This section
 23 does not apply to an ordinary pocket knife carried in a closed position. As used in this
 24 section, 'ordinary pocket knife' means a small knife, designed for carrying in a pocket or
 25 purse, which has its cutting edge and point entirely enclosed by its handle, and that may
 26 not be opened by a throwing, explosive or spring action.

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

- 28 (1) Officers and enlisted personnel of the armed forces of the United
 29 States when in discharge of their official duties as such and acting
 30 under orders requiring them to carry arms and weapons;
 31 (2) Civil officers of the United States while in the discharge of their
 32 official duties;
 33 (3) Officers and soldiers of the militia and the national guard when called
 34 into actual service;
 35 (4) Officers of the State, or of any county, city, or town, charged with the
 36 execution of the laws of the State, when acting in the discharge of their
 37 official duties;
 38 (5) Full-time sworn law-enforcement officers, when off-duty, in the
 39 jurisdiction where they are assigned, if:
 40 a. Written regulations authorizing the carrying of concealed
 41 weapons have been filed with the clerk of superior court in the
 42 county where the law-enforcement unit is located by the sheriff
 43 or chief of police or other superior officer in charge; and

1 b. Such regulations specifically prohibit the carrying of concealed
2 weapons while the officer is consuming or under the influence
3 of alcoholic beverages.

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

5 (1) The weapon was not a firearm;

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

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

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

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

12 (c) Any person violating the provisions of this section shall be guilty of a Class 2
13 1 misdemeanor."

14 Sec. 3. G.S. 14-404 reads as rewritten:

15 "**§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal;**
16 **sheriff's fee.**

17 Upon application, the sheriff shall issue such license or permit to a resident of that
18 county unless the purpose of the permit is for collecting, in which case a sheriff can
19 issue a permit to a nonresident when the sheriff shall have fully satisfied himself by
20 affidavits, oral evidence, or otherwise, as to the good moral character of the applicant
21 therefor, and that such person, firm, or corporation desires the possession of the weapon
22 mentioned for (i) the protection of the home, business, person, family or property,
23 (ii) target shooting, (iii) collecting, or (iv) hunting. The dealer from whom a permittee
24 buys a pistol shall demonstrate at the point of sale the safe and proper operation of the
25 purchased pistol. This does not include firing the weapon. The permit shall state that
26 the demonstration was performed and shall be signed and dated by both the dealer and
27 the purchaser. If said sheriff shall not be so fully satisfied, he may, for good cause
28 shown, decline to issue said license or permit and shall provide to said applicant within
29 seven days of such refusal a written statement of the reason(s) for such refusal. An
30 appeal from such refusal shall lie by way of petition to the chief judge of the district
31 court for the district in which the application was filed. The determination by the court,
32 on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's
33 refusal, and shall be final. A permit may not be issued to the following persons: (i) one
34 who is under an indictment or information for or has been convicted in any state, or in
35 any court of the United States, of a felony (other than an offense pertaining to antitrust
36 violations, unfair trade practices, or restraints of trade), except that if a person has been
37 convicted and later pardoned or is not prohibited from purchasing a firearm under the
38 Felony Firearms Act (Article 54A of this Chapter), he may obtain a permit; (ii) one who
39 is a fugitive from justice; (iii) one who is an unlawful user of or addicted to marijuana
40 or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. section 802); (iv)
41 one who has been adjudicated incompetent on the ground of mental illness or has been
42 committed to any mental institution. Provided, that nothing in this Article shall apply to
43 officers authorized by law to carry firearms if such officers identify themselves to the
44 vendor or donor as being officers authorized by law to carry firearms and state that the

1 purpose for the purchase of the firearms is directly related to the law officers' official
2 duties. The sheriff shall charge for his services upon issuing such license or permit a fee
3 of five dollars (\$5.00). Each applicant for any such license or permit shall be informed
4 by said sheriff within 30 days of the date of such application whether such license or
5 permit will be granted or denied and, if granted, such license or permit shall be
6 immediately issued to said applicant."

7 Sec. 4. This act becomes effective January 1, 1995, and applies to all
8 offenses committed on or after that date.