

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 224

Short Title: Use Firearm in A-E Felony/Add 5 Yrs.

(Public)

Sponsors: Representatives Ellis; Bowie, Bowman, J. Brown, Brubaker, Culp, Gardner, Hayes, Lemmond, Nichols, and J. Preston.

Referred to: Judiciary III.

February 15, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT AN ENHANCED PENALTY OF FIVE YEARS BE IMPOSED UPON A DEFENDANT CONVICTED OF A CLASS A, B, C, D, OR E FELONY IF THE DEFENDANT USED A LOADED OR UNLOADED GUN DURING THE COMMISSION OF THE FELONY.

The General Assembly of North Carolina enacts:

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

"§ 14-2.2A. **Mandatory sentence of five years for use of loaded or unloaded gun during commission of a Class A-E felony.**

Before sentencing a defendant convicted of a Class A, B, C, D, or E felony, the court shall determine whether the defendant used a loaded or unloaded gun during the commission of the felony. If the Class A, B, C, D, or E felony for which the defendant is convicted is one for which the possession or use of a weapon is not an essential element of proof and the court finds that the defendant used a loaded or unloaded gun during the commission of the felony, the court shall impose a mandatory sentence of imprisonment of five years without parole on the defendant in addition to the sentence imposed for the felony conviction. A sentence imposed pursuant to this section shall be consecutive to all other sentences imposed on the defendant and shall begin at the expiration of any other sentence being served by the defendant."

Sec. 2. G.S. 14-2.2A, as enacted by this act, reads as rewritten:

"§ 14-2.2A. **Mandatory sentence of ~~five years~~ 60 months for use of loaded or unloaded gun during commission of a Class A-E felony.**

1 Before sentencing a defendant convicted of a Class A, B, C, D, or E felony, the court  
2 shall determine whether the defendant used a loaded or unloaded gun during the  
3 commission of the felony. If the Class A, B, C, D, or E felony for which the defendant  
4 is convicted is one for which the possession or use of a weapon is not an essential  
5 element of proof and the court finds that the defendant used a loaded or unloaded gun  
6 during the commission of the felony, the court shall impose a ~~mandatory sentence of~~  
7 ~~imprisonment of five years~~ minimum term of imprisonment of 60 months as provided in  
8 G.S. 15A-1340.16A without parole on the defendant in addition to the sentence imposed  
9 for the felony conviction. A sentence imposed pursuant to this section shall be  
10 consecutive to all other sentences imposed on the defendant and shall begin at the  
11 expiration of any other sentence being served by the defendant."

12 Sec. 3. Part 2 of Article 81B of Chapter 15A of the General Statutes is  
13 amended by adding a new section to read:

14 "§ 15A-1340.16A. Enhanced sentence if defendant used a firearm while  
15 committing a Class A-E felony.

16 If a person is convicted of a Class A, B, C, D, or E felony, for which possession or  
17 use of a weapon is not an essential element of proof, and the court finds that the person  
18 used a loaded or unloaded firearm at the time of the felony, the court shall increase the  
19 minimum term of imprisonment to which the person is sentenced by 60 months. The  
20 court shall not suspend the 60-month minimum term of imprisonment imposed as an  
21 enhanced sentence under this section and shall not place any person sentenced under  
22 this section on probation for the enhanced sentence."

23 Sec. 4. Sections 2 and 3 of this act become effective January 1, 1995, and  
24 apply to offenses committed on or after that date. The remainder of this act becomes  
25 effective July 1, 1994, and applies to offenses committed on or after that date.