

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 67

Short Title: Use of Firearm During Drug Offense.

(Public)

Sponsors: Representatives Justus; Arnold, Berry, Bowie, Bowman, Brawley, J. Brown, Brubaker, Crawford, Creech, Culp, Daughtry, Decker, Diamont, Ellis, Esposito, Flaherty, Gamble, Gardner, Grady, Hall, Hayes, Holmes, Ives, James, Jenkins, Joye, Lee, Lemmond, McCombs, Mercer, Mitchell, Nichols, C. Preston, J. Preston, Ramsey, Robinson, Russell, Sexton, Thompson, Weatherly, and Wood.

Referred to: Judiciary I.

February 10, 1994

A BILL TO BE ENTITLED

AN ACT TO CREATE A SEPARATE OFFENSE OF POSSESSION OF A CONCEALED WEAPON OR USE OF A DEADLY WEAPON DURING THE COMMISSION OF A FELONY DRUG OFFENSE; TO MAKE THE NEW OFFENSE PUNISHABLE BY A MANDATORY MINIMUM TEN YEARS IMPRISONMENT WITHOUT PAROLE, GOOD TIME, OR GAIN TIME; AND TO MAKE CONFORMING CHANGES THAT WILL BE NEEDED WHEN STRUCTURED SENTENCING BECOMES EFFECTIVE.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

§ 90-95.6. Possession of a concealed weapon or use of a deadly weapon during a felony drug offense.

(a) A person who possesses a concealed weapon or uses a deadly weapon while committing a felony offense under G.S. 90-95 is guilty of a Class D felony and shall be sentenced to a term of at least 10 years in the State's prison.

(b) The offense created by this section is a separate, punishable offense from a felony offense under G.S. 90-95. A person may be convicted and punished for a violation of this section and also may be convicted and punished for a felony violation of G.S. 90-95.

1 (c) A person sentenced under this section shall not receive a suspended sentence
2 or be placed on probation. Notwithstanding any other provision of law, a person
3 sentenced under this section shall not be eligible for parole, good time, or gain time. A
4 person sentenced under this section shall not be eligible to be sentenced as a committed
5 youthful offender. The term of imprisonment imposed pursuant to this section shall run
6 consecutively with and shall commence at the expiration of any term of imprisonment
7 imposed for a felony offense committed under G.S. 90-95 and any other sentence being
8 served by the person being sentenced."

9 Sec. 2. G.S. 90-95.6 as enacted by this act reads as rewritten:

10 **"§ 90-95.6. Possession of a concealed weapon or use of a deadly weapon during**
11 **felony drug offense.**

12 (a) A person who possesses a concealed weapon or uses a deadly weapon while
13 committing a felony offense under G.S. 90-95 is guilty of a Class D felony and shall be
14 sentenced to ~~a term of at least 10 years in the State's prison.~~ an active minimum term of 120
15 months. The term of imprisonment imposed under this section shall run consecutively
16 with and shall commence at the expiration of any term of imprisonment imposed for a
17 felony offense committed under G.S. 90-95 and any other sentence being served by the
18 person being sentenced.

19 (b) The offense created by this section is a separate, punishable offense from a
20 felony offense under G.S. 90-95. A person may be convicted and punished for a
21 violation of this section and also may be convicted and punished for a felony violation
22 of G.S. 90-95.

23 ~~(c) A person sentenced under this section shall not receive a suspended sentence~~
24 ~~or be placed on probation. Notwithstanding any other provision of law, a person~~
25 ~~sentenced under this section shall not be eligible for parole, good time, or gain time. A~~
26 ~~person sentenced under this section shall not be eligible to be sentenced as a committed~~
27 ~~youthful offender. The term of imprisonment imposed pursuant to this section shall run~~
28 ~~consecutively with and shall commence at the expiration of any term of imprisonment~~
29 ~~imposed for a felony offense committed under G.S. 90-95 and any other sentence being~~
30 ~~served by the person being sentenced."~~

31 Sec. 3. Section 2 of this act becomes effective January 1, 1995, and applies
32 to offenses committed on or after that date. The remainder of this act becomes effective
33 July 1, 1994.