

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

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HOUSE BILL 88

Short Title: Concealed Handgun Permit.

(Public)

Sponsors: Representatives Mavretic; Berry, Brawley, J. Brown, Culp, Decker, Flaherty, Gardner, Lemmond, McCombs, Mitchell, Morgan, Nichols, C. Preston, J. Preston, Sexton, Spears, Weatherly, and Wood.

Referred to: Judiciary II.

February 14, 1994

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE THAT A PERSON WHO MEETS SPECIFIED STATUTORY
3 CRITERIA MAY CARRY A CONCEALED HANDGUN IF THE PERSON HAS
4 OBTAINED A CONCEALED HANDGUN PERMIT, TO AUTHORIZE
5 SHERIFFS TO ISSUE CONCEALED HANDGUN PERMITS, TO ESTABLISH
6 THE CRITERIA THAT MUST BE SATISFIED TO RECEIVE THE PERMIT, TO
7 ESTABLISH THE PROCEDURE FOR THE ISSUANCE OF A CONCEALED
8 HANDGUN PERMIT, AND TO MAKE CONFORMING STATUTORY
9 CHANGES.

10 The General Assembly of North Carolina enacts:

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

"ARTICLE 54B

"CONCEALED HANDGUN PERMIT.

13
14
15 **"§ 14-415.10. Definitions.**

16 The following definitions apply to this Article:

- 17 (1) Carry a concealed handgun. – The term includes possession of a
18 concealed handgun.
19 (2) Handgun. – A firearm that has a short stock and is designed to be held
20 and fired by the use of a single hand.
21 (3) Permit. – A concealed handgun permit issued in accordance with the
22 provisions of this Article.

1 **"§ 14-415.11. Permit to carry concealed handgun; scope of permit.**

2 (a) The sheriff may issue a permit to carry a concealed handgun to a person who
3 qualifies for a permit under G.S. 14-415.12. A permit shall be valid throughout the
4 State for a period of four years from the date of issuance. Any person in compliance
5 with the terms of the permit may carry a concealed handgun unless otherwise
6 specifically prohibited by law. The permittee shall carry the permit or a copy of the
7 permit, together with valid identification, at all times the permittee is carrying a
8 concealed handgun and shall display both the permit and the proper identification upon
9 the request of a law enforcement officer.

10 (b) A permit does not authorize a person to carry a concealed handgun in the
11 areas prohibited by G.S. 14-269.2, 14-269.3, 14-269.4, and 14-277.2; in any area
12 prohibited by § 922 of Title 18 of the U.S. Code or any other federal law; or in any area
13 prohibited by a local ordinance.

14 (c) A person who is issued a permit shall notify the sheriff who issued the permit
15 of any change in the person's permanent address within 30 days after the change of
16 address.

17 (d) A permit that is lost or destroyed is automatically invalid and the person to
18 whom the permit was issued shall notify the sheriff who issued the permit of the loss or
19 destruction of the permit. A person may obtain a duplicate permit by submitting to the
20 sheriff a notarized statement that the permit was lost or destroyed and paying a fee of
21 fifteen dollars (\$15.00).

22 **"§ 14-415.12. Criteria to qualify for the issuance of a permit.**

23 The sheriff shall issue a permit to an applicant if the applicant qualifies under the
24 following criteria:

- 25 (1) The applicant is a resident of the State and has been a resident for six
26 months or longer immediately preceding the filing of the application.
- 27 (2) The applicant is 21 years of age or older.
- 28 (3) The applicant does not suffer from a physical infirmity that prevents
29 the safe handling of a handgun.
- 30 (4) The applicant is not ineligible to possess a handgun under § 922(g) of
31 Title 18 of the U.S. Code or G.S. 14-415.1.
- 32 (5) The applicant has not been indicted for or convicted of a felony and
33 does not have proceedings pending for or a conviction of a forcible
34 misdemeanor.
- 35 (6) The applicant has not been committed to a private, State, or federal
36 facility for the abuse of alcohol or a controlled substance listed in
37 Article 5 of Chapter 90 of the General Statutes within a three-year
38 period immediately preceding the date on which the application is
39 submitted.
- 40 (7) The applicant does not chronically and habitually use alcoholic
41 beverages to the extent that the applicant's normal faculties are
42 impaired. It shall be presumed that an applicant's normal faculties are
43 impaired if the applicant has been committed to a private, State, or

1 federal facility as an alcoholic within the three-year period
2 immediately preceding the date on which the application is submitted.

3 (8) The applicant has not been adjudicated incompetent under Article 1 of
4 Subchapter 1 of Chapter 35A of the General Statutes, or has waited
5 three years from the date the applicant's competency was restored by
6 the court order under G.S. 35A-1130.

7 (9) The applicant has not been involuntarily committed to a mental
8 institution pursuant to Part 7 of Article 5 of Chapter 122C of the
9 General Statutes, unless the applicant possesses a certificate from a
10 psychiatrist licensed in this State that the applicant has not suffered
11 from disability for a period of three years.

12 (10) The applicant demonstrates proficiency in the use of a handgun as
13 provided in G.S. 14-415.13.

14 **"§ 14-415.13. Demonstration of competence with a handgun required.**

15 (a) An applicant shall demonstrate that the applicant is competent with a
16 handgun by any one of the following:

17 (1) Completion of any hunter education or hunter safety course approved
18 by the Wildlife Resources Commission or a similar agency of another
19 state.

20 (2) Completion of any firearm safety or training course or class available
21 to the general public offered by law enforcement, junior college,
22 college, or private or public institution, organization, or firearms
23 training school, utilizing instructors certified by the National Rifle
24 Association or the State Bureau of Investigation.

25 (3) Completion of any law enforcement firearms safety or training course
26 or class offered for security guards, investigators, special deputies, or
27 any division or subdivision of law enforcement or security
28 enforcement.

29 (4) Experience with a firearm through participation in organized shooting
30 competition or military service.

31 (5) Completion of any firearms training or safety course or class
32 conducted by a State certified or National Rifle Association certified
33 firearms instructor.

34 (b) The following shall constitute evidence of qualification under this section:

35 (1) A legible photocopy of a certificate of completion of any of the
36 courses or classes or a notarized affidavit from the instructor, school,
37 club, organization, or group that conducts or taught the course or class
38 attesting to the completion of the course or class by the applicant; or

39 (2) A legible photocopy of any document which shows completion of the
40 course or class or evidences participation in organized shooting
41 competition.

42 **"§ 14-415.14. Application for permit.**

1 A person shall apply to the sheriff of the county in which the person resides to obtain
2 a concealed handgun permit. The applicant shall submit to the sheriff all of the
3 following:

- 4 (1) An application, completed under oath, on a form provided by the
5 sheriff's office.
- 6 (2) A nonrefundable permit fee of twenty dollars (\$20.00).
- 7 (3) A full set of fingerprints of the applicant administered by a law
8 enforcement agency of this State. The actual cost of processing the set
9 of fingerprints shall be borne by the applicant.
- 10 (4) A document verifying the applicant's competence with a handgun as
11 described in G.S. 14-415.13(b).

12 **"§ 14-415.15. Issuance or denial of permit.**

13 (a) Within 60 days after receipt of the items listed in G.S. 14-415.14 from an
14 applicant, the sheriff shall either issue or deny the permit. The sheriff may conduct any
15 investigation necessary to determine the qualification or competency of the person
16 applying for the permit, including record checks.

17 (b) A person's application for a permit shall be denied only if the applicant fails
18 to qualify under the criteria listed in this Article. If the sheriff denies the application for
19 a permit, the sheriff shall notify the applicant in writing, stating the grounds for denial.

20 (c) The sheriff shall maintain a listing of those persons who are issued permits
21 and any pertinent information regarding the issued permit, and that information shall be
22 available upon request, at all times to all State law enforcement agencies.

23 **"§ 14-415.16. Renewal of permit.**

24 (a) The holder of a permit shall renew the permit on or before its expiration date
25 by filing with the sheriff of the county in which the person resides a renewal form
26 provided by the sheriff's office, a notarized affidavit stating that the permittee remains
27 qualified under the criteria provided in this Article, and a renewal fee of fifteen dollars
28 (\$15.00). Upon receipt of the completed renewal application and appropriate payment
29 of fees, the sheriff shall renew the permit if the person is qualified.

30 (b) Upon the expiration of a permit, there is a six-month grace period that begins
31 on the expiration date of the permit. A person who fails to renew the permit by the
32 expiration date of the permit, may renew the permit as provided under subsection (a) of
33 this section if the person applies for renewal during the six- month grace period and
34 pays a late fee of fifteen dollars (\$15.00) in addition to the renewal fee of fifteen dollars
35 (\$15.00).

36 (c) No permit shall be renewed more than six months after its expiration date. A
37 person whose permit has been expired more than six months may apply for a new
38 permit as provided by this Article.

39 **"§ 14-415.17. Revocation of permit.**

40 A permit shall be revoked if the permittee becomes ineligible to be issued a permit
41 under the criteria set out in G.S. 14-415.12.

42 **"§ 14-415.18. Fees.**

43 All fees collected under this Article shall be retained by the sheriff's department.

44 **"§ 14-415.19. Application form.**

1 The sheriff shall make available the application form for a permit; the form shall
 2 include only the following:

- 3 (1) The name, address, place and date of birth, and race of the applicant.
- 4 (2) A separate listing of the criteria contained in G.S. 14-415.12 and a
 5 statement that, to the best of the applicant's knowledge, the applicant is
 6 in compliance with those criteria.
- 7 (3) A statement that the applicant has been furnished a copy of this Article
 8 and is knowledgeable of its provisions.
- 9 (4) A conspicuous warning that the application is executed under oath and
 10 that a materially false answer to any question or the submission of any
 11 materially false document by the applicant, shall subject the applicant
 12 to criminal prosecution under G.S. 14-415.20.

13 **"§ 14-415.20. Violations of this Article punishable as a Class 3 misdemeanor.**

14 A person who commits any of the following is guilty of a Class 3 misdemeanor:

- 15 (1) Gives false information to obtain a permit.
- 16 (2) Possesses and uses a permit that has been revoked.
- 17 (3) Fails to have in the person's possession a valid permit whenever
 18 actually carrying a concealed handgun.
- 19 (4) Intentionally alters or counterfeits a permit.
- 20 (5) Sells, gives, or transfers a permit to another person.

21 **"§ 14-415.21. Construction of Article.**

22 This Article shall not be construed to require a person who may carry a concealed
 23 weapon under the provisions of G.S. 14-269(b) to obtain a concealed handgun permit."

24 Sec. 2. G.S. 14-269 reads as rewritten:

25 **"§ 14-269. Carrying concealed weapons.**

26 (a) ~~It shall be unlawful for any person, except when on his own premises, person~~
 27 ~~willfully and intentionally to carry concealed about his person any bowie knife, dirk,~~
 28 ~~dagger, slung shot, loaded cane, metallic knuckles, razor, shurikin, stun gun, pistol, gun~~
 29 ~~or other deadly weapon of like kind-kind, except in the following circumstances:~~

- 30 (1) The person is on the person's own premises.
- 31 (2) The deadly weapon is a handgun and the person has a concealed
 32 handgun permit issued in accordance with Article 54B of this Chapter.

33 ~~This section does not apply to an ordinary pocket knife carried in a closed position. As~~
 34 ~~used in this section, "ordinary pocket knife" means a small knife, designed for carrying~~
 35 ~~in a pocket or purse, which has its cutting edge and point entirely enclosed by its handle,~~
 36 ~~and that may not be opened by a throwing, explosive or spring action.~~

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

- 38 (1) Officers and enlisted personnel of the armed forces of the United
 39 States when in discharge of their official duties as such and acting
 40 under orders requiring them to carry arms and weapons;
- 41 (2) Civil officers of the United States while in the discharge of their
 42 official duties;
- 43 (3) Officers and soldiers of the militia and the national guard when called
 44 into actual service;

- 1 (4) Officers of the State, or of any county, city, or town, charged with the
2 execution of the laws of the State, when acting in the discharge of their
3 official duties;
- 4 (5) Full-time sworn law-enforcement officers, when off-duty, in the
5 jurisdiction where they are assigned, if:
- 6 a. Written regulations authorizing the carrying of concealed
7 weapons have been filed with the clerk of superior court in the
8 county where the law-enforcement unit is located by the sheriff
9 or chief of police or other superior officer in charge; and
- 10 b. Such regulations specifically prohibit the carrying of concealed
11 weapons while the officer is consuming or under the influence
12 of alcoholic beverages.
- 13 (b1) It is a defense to a prosecution under this section that:
- 14 (1) The weapon was not a firearm;
- 15 (2) The defendant was engaged in, or on the way to or from, an activity in
16 which he legitimately used the weapon;
- 17 (3) The defendant possessed the weapon for that legitimate use; and
- 18 (4) The defendant did not use or attempt to use the weapon for an illegal
19 purpose.

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

21 (c) **(Effective until January 1, 1995)** Any person violating the provisions of this
22 section shall be guilty of a misdemeanor, and shall be punished by a fine not to exceed
23 five hundred dollars (\$500.00), imprisonment for not more than six months, or both.

24 (c) **(Effective January 1, 1995)** Any person violating the provisions of this
25 section shall be guilty of a Class 2 misdemeanor.

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

30 Sec. 3. This act becomes effective January 1, 1995.