

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 55

Short Title: Use Weapon/10 Yr. Mandatory.

(Public)

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Sponsors: Senators Forrester; Cochrane, Hartsell, Blackmon, Shaw, Carpenter, Hoyle, Codington, and Warren.

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Referred to: Corrections/Punishment.

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February 10, 1994

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE A MANDATORY TEN-YEAR SENTENCE WITHOUT  
2 PAROLE FOR USING A LOADED OR UNLOADED GUN OR A KNIFE IN A  
3 CRIME.  
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5 The General Assembly of North Carolina enacts:

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

8 "**§ 14-2.2A. Mandatory sentence of 10 years for use of gun or knife during**  
9 **commission of felony.**

10 Before sentencing a defendant convicted of a felony, the court shall determine  
11 whether the defendant used a loaded or unloaded gun or a knife during the commission  
12 of the felony. If the felony for which the defendant is convicted is one for which the  
13 possession or use of a weapon is not an essential element of proof and the court finds  
14 that the defendant used a loaded or unloaded gun or a knife during the commission of  
15 the felony, the court shall impose a mandatory sentence of imprisonment of 10 years  
16 without parole on the defendant in addition to the sentence imposed for the felony  
17 conviction. A sentence imposed pursuant to this section shall be consecutive to all other  
18 sentences imposed on the defendant and shall begin at the expiration of any other  
19 sentence being served by the defendant."

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

21 "**§ 14-2.2A. Mandatory sentence of ~~ten years~~ 120 months for use of gun or knife**  
22 **during commission of felony.**

1 Before sentencing a defendant convicted of a felony, the court shall determine  
2 whether the defendant used a loaded or unloaded gun or a knife during the commission  
3 of the felony. If the felony for which the defendant is convicted is one for which the  
4 possession or use of a weapon is not an essential element of proof and the court finds  
5 that the defendant used a loaded or unloaded gun or a knife during the commission of  
6 the felony, the court shall impose a ~~mandatory sentence of imprisonment of ten years~~  
7 minimum term of imprisonment of 120 months without parole as provided in G.S. 15A-  
8 1340.16A on the defendant in addition to the sentence imposed for the felony  
9 conviction. A sentence imposed pursuant to this section shall be consecutive to all other  
10 sentences imposed on the defendant and shall begin at the expiration of any other  
11 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 or knife while**  
15 **committing felony.**

16 If a person is convicted of a felony, for which possession or use of a weapon is not  
17 an essential element of proof, and the court finds that the person used a loaded or  
18 unloaded firearm or knife at the time of the felony, the court shall increase the  
19 minimum term of imprisonment to which the person is sentenced by 120 months. The  
20 court shall not suspend the 120-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.