

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 919

Short Title: Handgun Sales Range Protection.

(Public)

Sponsors: Representative Daughtry.

Referred to: Judiciary I.

April 12, 1995

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATE'S GUN LAWS.

The General Assembly of North Carolina enacts:

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

"ARTICLE 53B.
"HANDGUNS.

"§ 14-409.20. Legislative intent.

(a) It is the intention of this Article to establish State laws which are consistent with the policy and terms of the federal Brady Handgun Violence Protection Act by providing a State background check law.

(b) This Article shall in all respects be construed and administered in conformity with the provisions of the federal Brady Handgun Violence Protection Act. Without limiting the generality of the foregoing, it is specifically intended that this Article shall constitute a State law requiring verification by a State official that information available does not indicate that possession of a handgun by a proposed transferee would be in violation of law, as authorized under 18 U.S.C. § 922(s)(1)(D).

"§ 14-409.21. Definitions.

The following definitions apply in this Article:

- 1 (1) Dealer. – Any person licensed as a dealer pursuant to 18 U.S.C. § 921,
2 et seq., or G.S. 105-80.
3 (2) Department. – Department of Justice.
4 (3) Handgun. – A pistol, revolver, or other gun that has a short stock and is
5 designed to be held and fired by the use of a single hand.
6 (4) Involuntarily committed. – Hospitalized as an inpatient in any mental
7 health facility pursuant to Article 5 of Chapter 122C of the General
8 Statutes or hospitalized as an inpatient in any mental health facility as a
9 result of being adjudicated mentally incompetent to stand trial or being
10 adjudicated not guilty by reason of insanity at the time of the crime
11 pursuant to Article 80 of Chapter 15A of the General Statutes.

12 **"§ 14-409.22. Sale and delivery of handguns.**

13 (a) On and after January 1, 1996, no dealer licensed pursuant to 18 U.S.C. § 923 or
14 G.S. 105-80 shall sell or deliver from his or her business inventory at his or her licensed
15 premises any handgun to another person, other than a licensed importer, licensed
16 manufacturer, licensed dealer, or licensed collector, until:

- 17 (1) The dealer has obtained a completed consent form from the potential
18 buyer or transferee. The form shall have been promulgated by the
19 Department and provided by the licensed dealer. The form shall include
20 only the name, birth date, gender, race, and social security number or
21 other identification number of the potential buyer or transferee;
22 (2) The dealer has inspected identification containing a photograph of the
23 potential buyer or transferee;
24 (3) The dealer has requested, by means of a toll-free telephone call, that the
25 Department conduct a criminal history records check;
26 (4) The dealer has received a unique transaction number for that inquiry
27 from the Department verifying that the information available to the
28 Department does not indicate that possession of a handgun by the
29 transferee would be in violation of federal or State law; and
30 (5) The dealer has recorded the date of receipt of the identifying number
31 and the number on the consent form.

32 (b) The Department jointly with the Administrative Office of the Courts and the
33 Department of Human Resources shall report to the General Assembly no later than May
34 1, 1996, on the feasibility and costs of including an involuntary commitment records
35 check on records to be made electronically available to the agency. Such report shall
36 recommend changes in this Article and in confidentiality statutes that might be necessary
37 to implement such a check.

38 **"§ 14-409.23. Instant criminal history records check.**

39 (a) Upon receipt of a request for a criminal history records check, the Department
40 shall immediately, during the dealer's call or by return call:

- 41 (1) Review all criminal history records electronically available to the
42 Department to determine if the potential buyer or transferee is

1 prohibited from receipt or possession of a handgun pursuant to State or
2 federal law; and

3 (2) Inform the dealer making the inquiry that its records demonstrate that
4 the potential buyer or transferee is so prohibited or provide the dealer
5 with a unique transaction number.

6 (b) In the event that the electronic check of records available to the Department as
7 provided in subsection (a) of this section reveals the existence of a criminal history record
8 not immediately available to the Department so as to determine the eligibility of the
9 potential buyer to purchase a handgun, the Department shall in the same call or return call
10 advise the dealer of such existing, but not immediately available record. In that event, the
11 dealer shall not complete the sale of the handgun until the Department advises the dealer
12 that information subsequently received as a result of that request shows that the potential
13 buyer is not prohibited from receiving or possessing a handgun under State or federal
14 law. The Department shall advise the dealer as soon as the information is received.

15 (c) If a person has been convicted of a felony and is prohibited from purchasing
16 the handgun under federal law, but G.S. 14-415.1 permits the person to possess the
17 handgun of that person's premises, the Department shall not issue a unique identification
18 number to the dealer as part of the telephone call or return telephone call under this
19 Article. The Department shall issue the number if that person provides evidence to the
20 Department, in accordance with procedures established by the Department, that G.S. 14-
21 415.1 would permit the person to purchase the gun.

22 **"§ 14-409.24. Problems preventing check from completion by end of day; exception**
23 **for calls received near end of day.**

24 (a) In the event of electronic failure, scheduled computer downtime, or similar
25 emergency beyond the control of the Department or center which prevents or delays the
26 checks from being made as provided in G.S. 14-409.23, the Department shall
27 immediately notify the requesting dealer of the reason for, and estimated length of, the
28 delay. If the delay is expected to extend beyond the close of business of the day the
29 request is made, the firearm dealer may complete the transaction immediately without
30 being in violation of this Article. After the notification, the Department shall
31 immediately, and in no event later than the end of the day the request is made by the
32 dealer, either inform the requesting dealer if its records demonstrate that the potential
33 buyer is prohibited from receipt or possession of a handgun under State or federal law or
34 provide the dealer a unique transaction number. Unless notified by the close of business
35 the day the request is made that the potential buyer is so prohibited, and without regard to
36 whether the potential buyer has received a unique transaction number, the dealer may
37 complete the transaction and shall not be deemed in violation of this Article.
38 Notwithstanding any other provision of this section, if the call is received in the 30
39 minutes prior to the end of the business day, then a response no later than 30 minutes
40 after the opening of business the next business day is timely.

41 (b) A licensed dealer is not required to comply with the requirements of this
42 Article in the event of unavailability of telephone service at the licensed premises due to
43 the failure of the entity which provides telephone service in the State, region, or other

1 geographical area in which the dealer is located to provide telephone service to the
2 premises of the dealer due to the location of such premises or the interruption of
3 telephone service by reason of hurricane, tornado, flood, natural disaster, or other act of
4 God, war, invasion, insurrection, riot, or other bona fide emergency, or other reason
5 beyond the control of the dealer.

6 (c) The Department shall not be held liable in any civil or criminal action if a
7 dealer completes a transaction as provided in this section because the Department is
8 unable to make the records check by the end of the business day or within 30 minutes
9 after the opening of the next business day as provided by this section.

10 **"§ 14-409.25. Fees.**

11 (a) The Department may charge and collect a fee of five dollars (\$5.00) for each
12 criminal history records check conducted pursuant to G.S. 14-409.23.

13 (b) The Department shall charge and collect a fee of three hundred dollars
14 (\$300.00) each fiscal year from each dealer requesting a criminal history records check
15 pursuant to G.S. 14-409.23.

16 **"§ 14-409.26. No departmental lists of handgun purchasers permitted.**

17 The Department shall not create any list, electronic, magnetic, or otherwise,
18 containing any of the information set forth in G.S. 14-409.22(1) pertaining to a
19 potential buyer or transferee unless the potential buyer or transferee is prohibited from
20 receipt or possession of a handgun pursuant to State or federal law.

21 **"§ 14-409.27. Seven-day availability of record checks.**

22 The Department shall establish a toll-free telephone number which shall be
23 operational seven days a week between the hours of 8:00 a.m. and 10:00 p.m. for
24 purposes of responding to inquiries as described in this Article from licensed dealers.
25 The Department shall employ and train the personnel necessary to administer
26 expeditiously the provisions of this section.

27 **"§ 14-409.28. Right to appeal denial of license; cause of action against the State for**
28 **failure to correct.**

29 Any person who is denied the right to receive or purchase a handgun as a result of the
30 procedures established by this Article may apply to the Department for issuance to the
31 dealer of the unique transaction number provided by this Article which would allow the
32 sale to be completed, and such unique transaction number shall be issued if the applicant
33 proves to the Department that the denial was erroneous because the person is not
34 prohibited from receipt or possession of a handgun by State or federal law. The
35 Department shall promulgate rules setting forth procedures for the evaluation of the
36 person's claim. The Department shall not, however, relitigate or otherwise evaluate a
37 person's adjudication of guilt. If the Department fails to issue the transaction number
38 within seven days, the applicant may petition the superior court of the county of that
39 person's residence for an order directing the Department to issue the unique transaction
40 number. The superior court shall hear the appeal on the record below. If the information
41 provided demonstrates that the person is not prohibited from receipt or possession of a
42 handgun by State or federal law, the Department shall destroy any records it maintains

1 which contain any information derived from the criminal history record check set forth in
2 G.S. 14-409.22(1).

3 **"§ 14-409.29. Rule-making authority; felony violation of confidentiality.**

4 (a) The Department shall adopt rules to ensure the identity, confidentiality, and
5 security of all records and data provided pursuant to this Article.

6 (b) Any government employee or officer who willfully or intentionally
7 compromises the identity, confidentiality, and security of any records and data pursuant
8 to this Article is guilty of a Class I felony, shall be fined no less than five thousand
9 dollars (\$5,000), and shall be subject to automatic dismissal from the office or
10 employment.

11 **"§ 14-409.30. Immunity of seller or transferor from liability.**

12 Compliance with the provisions of this Article shall be a complete defense to any
13 claim or cause of action under the laws of this State for liability for damages arising from
14 the sale or transfer of any handgun which has been shipped or transported in interstate or
15 foreign commerce to any person who has been convicted in any court of a crime
16 punishable by imprisonment for a term exceeding one year or who has been involuntarily
17 committed.

18 **"§ 14-409.31. Exceptions to this Article.**

19 (a) The provisions of this Article shall not apply to:

20 (1) Any firearm, including any handgun with a matchlock, flintlock,
21 percussion cap, or similar type of ignition system, manufactured in or
22 before 1898;

23 (2) Any replica of any firearm described in subdivision (1) of this
24 subsection if the replica is not designed or redesigned to use rimfire or
25 conventional center-fire fixed ammunition or uses rimfire or
26 conventional center-fire fixed ammunition which is no longer
27 manufactured in the United States and which is not readily available in
28 the ordinary channels of commercial trade;

29 (3) Any firearm which is a curio or relic as defined by 27 C.F.R. 178.11; or

30 (4) Law enforcement officers in good standing and with arrest powers,
31 certified by either the North Carolina Criminal Justice and Training
32 Standards Commission or the North Carolina Sheriffs' Education and
33 Training Standards Commission, purchasing a handgun to be used for
34 official purposes.

35 (b) Notwithstanding any other provisions of this Article in any case where a
36 person has transferred a handgun as collateral for a loan or as pledged goods in a pawn
37 transaction and the transaction has been carried out pursuant to the provisions of this
38 Article, upon the person reclaiming or redeeming the handgun from the dealer or upon
39 the person transferring any other handgun as collateral or pledged goods to the same
40 dealer or reclaiming the same at any time during the calendar year as the original
41 transaction with the dealer, the provisions of this Article shall not apply to the transfers
42 subsequent to the original transfer during the calendar year.

43 **"§ 14-409.32. Violations of this Article; penalties.**

1 (a) Any licensed dealer or any government employee or officer who willfully and
2 intentionally requests a criminal history records check from the Department for any
3 purpose other than compliance with this Article or willfully and intentionally
4 disseminates any criminal history records information to any person other than the
5 subject of the information is guilty of a Class I felony.

6 (b) Any person who, in connection with the purchase, transfer, or attempted
7 purchase or transfer of a handgun pursuant to G.S. 14-409.22, willfully and intentionally
8 makes any materially false oral or written statement or willfully and intentionally
9 furnishes or exhibits any false identification intended or likely to deceive the dealer is
10 guilty of a Class 1 misdemeanor.

11 (c) Any licensed dealer who willfully and intentionally sells or delivers a handgun
12 in violation of this Article is guilty of a Class 1 misdemeanor.

13 (d) Any purchaser or owner of a firearm who willfully and intentionally transfers
14 the firearm at any time to a person whom he or she knows to be prohibited from the
15 possession of a handgun by State or federal law is guilty of a Class I felony. This
16 subsection shall apply to lawful transfers as provided in this Chapter.

17 **"§ 14-409.33. Report to General Assembly.**

18 The Department shall provide the Speaker of the House of Representatives and the
19 President Pro Tempore of the Senate an annual report including the number of inquiries
20 made pursuant to this Article for the prior calendar year. The report shall include the
21 number of inquiries received from dealers, the number of inquiries resulting in a
22 determination that the potential buyer or transferee was prohibited from receipt or
23 possession of a handgun pursuant to State or federal law, the estimated costs of
24 administering this Article, the number of instances in which a person requests approval
25 pursuant to G.S. 14-409.28(a), the number of instances in which the superior court issued
26 an order directing the Department to issue a unique transaction number pursuant to G.S.
27 14-409.28(a), and the number of instances in which the Department was asked to issue a
28 unique identification number under G.S. 14-409.23(c)."

29 Sec. 2. Article 52A of Chapter 14 of the General Statutes reads as rewritten:

30 **"ARTICLE 52A.**

31 **SALE OF WEAPONS-CROSSBOWS IN CERTAIN COUNTIES.**

32 **"§ 14-402. Sale of certain ~~weapons~~ crossbows without permit forbidden.**

33 (a) It shall be unlawful for any person, firm, or corporation in this State to sell,
34 give away, or transfer, or to purchase or receive, at any place within this State from any
35 other place within or without the State any ~~pistol~~ or crossbow unless a license or permit
36 therefor has first been obtained by the purchaser or receiver from the sheriff of the county
37 in which that purchaser or receiver resides.

38 It shall be unlawful for any person or persons to receive from any postmaster, postal
39 clerk, employee in the parcel post department, rural mail carrier, express agent or
40 employee, railroad agent or employee within the State of North Carolina any ~~pistol~~ or
41 crossbow without having in his or their possession and without exhibiting at the time of
42 the delivery of the same and to the person delivering the same the permit from the sheriff

1 as provided in G.S. 14-403. Any person violating the provisions of this section shall be
2 guilty of a Class 2 misdemeanor.

3 (b) ~~This section does not apply to an antique firearm or an historic edged weapon.~~

4 (c) The following definitions apply in this section:

5 (1) ~~Antique firearm. — Defined in G.S. 14-409.11.~~

6 (2) Bolt. — A projectile made to be discharged from a crossbow. The bolt
7 differs from an arrow in that the bolt is heavier and shorter than an
8 arrow.

9 (3) Crossbow. — A mechanical device consisting of, but not limited to,
10 strings, cables, and prods transversely mounted on either a shoulder or
11 hand-held stock. This devise [device] is mechanically held at full or
12 partial draw and released by a trigger or similar mechanism which is
13 incorporated into a stock or handle. When operated, the crossbow
14 discharges a projectile known as a bolt.

15 (4) ~~Historic edged weapon. — Defined in G.S. 14-409.12.~~

16 **"§ 14-403. Permit issued by sheriff; form of permit.**

17 The sheriffs of any and all counties of this State are hereby authorized and directed to
18 issue to any person, firm, or corporation in any such county a license or permit to
19 purchase or receive any ~~weapon~~ crossbow mentioned in this Article from any person,
20 firm, or corporation offering to sell or dispose of the same, which said license or permit
21 shall be in the following form, to wit:

22 North Carolina,
23 County.

24 I,, Sheriff of said County, do hereby certify that whose place of residence
25 isin(or) in....Township, County, North Carolina, having this day
26 satisfied me as to his, her (or) their good moral character, a license or permit is therefore
27 hereby given saidto purchase one ~~pistol~~ crossbow from any person, firm or
28 corporation authorized to dispose of the same.

29 Thisday of, 19.....

30
31 Sheriff.

32 **"§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal;
33 sheriff's fee.**

34 Upon application, the sheriff shall issue such license or permit to a resident of that
35 county unless the purpose of the permit is for collecting, in which case a sheriff can issue
36 a permit to a nonresident when the sheriff shall have fully satisfied himself by affidavits,
37 oral evidence, or otherwise, as to the good moral character of the applicant therefor, and
38 that such person, firm, or corporation desires the possession of the ~~weapon~~ crossbow
39 mentioned for (i) the protection of the home, business, person, family or property, (ii)
40 target shooting, (iii) collecting, or (iv) hunting. If said sheriff shall not be so fully
41 satisfied, he may, for good cause shown, decline to issue said license or permit and shall
42 provide to said applicant within seven days of such refusal a written statement of the
43 reason(s) for such refusal. An appeal from such refusal shall lie by way of petition to the

1 chief judge of the district court for the district in which the application was filed. The
2 determination by the court, on appeal, shall be upon the facts, the law, and the
3 reasonableness of the sheriff's refusal, and shall be final. A permit may not be issued to
4 the following persons: (i) one who is under an indictment or information for or has been
5 convicted in any state, or in any court of the United States, of a felony (other than an
6 offense pertaining to antitrust violations, unfair trade practices, or restraints of trade),
7 except that if a person has been convicted and later pardoned or is not prohibited from
8 purchasing a firearm under the Felony Firearms Act (Article 54A of this Chapter), he
9 may obtain a permit; (ii) one who is a fugitive from justice; (iii) one who is an unlawful
10 user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as defined
11 in 21 U.S.C. section 802); (iv) one who has been adjudicated incompetent on the ground
12 of mental illness or has been committed to any mental institution. ~~Provided, that nothing in
13 this Article shall apply to officers authorized by law to carry firearms if such officers identify
14 themselves to the vendor or donor as being officers authorized by law to carry firearms and state
15 that the purpose for the purchase of the firearms is directly related to the law officers' official
16 duties.~~ The sheriff shall charge for his services upon issuing such license or permit a fee
17 of five dollars (\$5.00). Each applicant for any such license or permit shall be informed by
18 said sheriff within 30 days of the date of such application whether such license or permit
19 will be granted or denied and, if granted, such license or permit shall be immediately
20 issued to said applicant.

21 **"§ 14-405. Record of permits kept by sheriff.**

22 The sheriff shall keep a book, to be provided by the board of commissioners of each
23 county, in which he shall keep a record of all licenses or permits issued under this article,
24 including the name, date, place of residence, age, former place of residence, etc., of each
25 such person, firm, or corporation to whom or which a license or permit is issued.

26 **"§ 14-406. Dealer to keep record of sales.**

27 Every dealer in ~~pistols and other weapons mentioned in this Article~~ crossbows shall keep
28 an accurate record of all sales thereof, including the name, place of residence, date of
29 sale, etc., of each person, firm, or corporation to whom or which such sales are made,
30 which record shall be open to the inspection of any duly constituted State, county or
31 police officer, within this State.

32 ~~§14n During the period of listing taxes in each year the owner or person in
33 possession or having the custody or care of any weapon mentioned in this
34 article is required to list the same specifically, as is now required for
35 listing personal property for taxes. Any person listing any such weapon for
36 taxes shall be required to designate his place of residence, including local
37 street address.~~

38 ~~§14d The provisions of G.S. 14-402 and 14-405 to 14-407 shall apply to the sale of
39 pistols suitable for firing blank cartridges. The clerks of the superior
40 courts of all the counties of this State are authorized and may in their
41 discretion issue to any person, firm or corporation, in any such county, a
42 license or permit to purchase or receive any pistol suitable for firing blank~~

1 ~~cartridges from any person, firm or corporation offering to sell or dispose~~
 2 ~~of the same, which said permit shall be in substantially the following form:~~

3 ~~North Carolina~~

4 ~~..... County~~

5 I, ~~....., Clerk of the Superior Court of said county, do hereby certify that~~
 6 ~~....., whose place of residence is.....Street in (or) in~~
 7 ~~Township in County, North Carolina, having this day satisfied me that the~~
 8 ~~possession of a pistol suitable for firing blank cartridges will be used only for lawful~~
 9 ~~purposes, a permit is therefore given said to purchase said pistol from any person,~~
 10 ~~firm or corporation authorized to dispose of the same, this.....day of, 19~~

11 ~~.....~~

12 ~~..... Clerk of Superior Court~~

13 ~~The clerk shall charge for his services, upon issuing such permit, a fee of fifty cents~~
 14 ~~(50¢).~~

15 **"§ 14-408. Violation of "§ 14i Any person, firm, or corporation violating any of the**
 16 **provisions of G.S. 14-406 or 14-407 shall be guilty of a Class 2**
 17 **misdemeanor.**

18 **"§ 14-409. Machine guns and other like weapons.**

19 (a) As used in this section, 'machine gun' or 'submachine gun' means any weapon
 20 which shoots, is designed to shoot, or can be readily restored to shoot, automatically
 21 more than one shot, without manual reloading, by a single function of the trigger. The
 22 term shall also include the frame or receiver of any such weapon, any combination of
 23 parts designed and intended for use in converting a weapon into a machine gun, and any
 24 combination of parts from which a machine gun can be assembled if such parts are in the
 25 possession or under the control of a person.

26 (b) It shall be unlawful for any person, firm or corporation to manufacture, sell,
 27 give away, dispose of, use or possess machine guns, submachine guns, or other like
 28 weapons as defined by subsection (a) of this section: Provided, however, that this
 29 subsection shall not apply to the following:

30 Banks, merchants, and recognized business establishments for use in their respective
 31 places of business, who shall first apply to and receive from the sheriff of the county in
 32 which said business is located, a permit to possess the said weapons for the purpose of
 33 defending the said business; officers and soldiers of the United States Army, when in
 34 discharge of their official duties, officers and soldiers of the militia and the State guard
 35 when called into actual service, officers of the State, or of any county, city or town,
 36 charged with the execution of the laws of the State, when acting in the discharge of their
 37 official duties; the manufacture, use or possession of such weapons for scientific or
 38 experimental purposes when such manufacture, use or possession is lawful under federal
 39 laws and the weapon is registered with a federal agency, and when a permit to
 40 manufacture, use or possess the weapon is issued by the sheriff of the county in which the
 41 weapon is located. Provided, further, that any bona fide resident of this State who now
 42 owns a machine gun used in former wars, as a relic or souvenir, may retain and keep

1 same as his or her property without violating the provisions of this section upon his
2 reporting said ownership to the sheriff of the county in which said person lives.

3 (c) Any person violating any of the provisions of this section shall be guilty of a
4 Class I felony."

5 Sec. 3. Article 53 of Chapter 14 of the General Statutes reads as rewritten:

6 **"ARTICLE 53.**

7 **"SALE OF WEAPONS-CROSSBOWS IN CERTAIN OTHER COUNTIES.**

8 **"§ 14-409.1. Sale of certain ~~weapons~~-crossbows without permit forbidden.**

9 (a) It shall be unlawful for any person, firm, or corporation in this State to sell,
10 give away, or transfer, or to purchase or receive, at any place within this State from any
11 other place within or without the State any ~~pistol~~ or crossbow unless a license or permit
12 therefor has first been obtained by the purchaser or receiver from the clerk of the superior
13 court of the county in which that purchaser or receiver resides.

14 It shall be unlawful for any person or persons to receive from any postmaster, postal
15 clerk, employee in the parcel post department, rural mail carrier, express agent or
16 employee, railroad agent or employee within the State of North Carolina any ~~pistol~~
17 crossbow without having in his or their possession and without exhibiting at the time of
18 the delivery of the same and to the person delivering the same, the permit from the clerk
19 of superior court as provided in G.S. 14-409.2. Any person violating the provisions of
20 this section shall be guilty of a Class 2 misdemeanor.

21 ~~(b) This section does not apply to an antique firearm or an historic edged weapon.~~

22 (c) The following definitions apply in this section:

23 (1) ~~Antique firearm. — Defined in G.S. 14-409.11.~~

24 (2) Bolt. — A projectile made to be discharged from a crossbow. The bolt
25 differs from an arrow in that the bolt is heavier and shorter than an
26 arrow.

27 (3) Crossbow. — A mechanical device consisting of, but not limited to,
28 strings, cables, and prods transversely mounted on either a shoulder or
29 hand-held stock. This devise [device] is mechanically held at full or
30 partial draw and released by a trigger or similar mechanism which is
31 incorporated into a stock or handle. When operated, the crossbow
32 discharges a projectile known as a bolt.

33 (4) ~~Historic edged weapon. — Defined in G.S. 14-409.12.~~

34 **"§ 14-409.2. Permit issued by clerk of court; form of permit.**

35 The clerks of the superior courts of any and all counties of this State are hereby
36 authorized and directed to issue to any person, firm, or corporation in any such county a
37 license or permit to purchase or receive any ~~weapon~~-crossbow mentioned in this Article
38 from any person, firm, or corporation offering to sell or dispose of the same, which said
39 license or permit shall be in the following form, to wit:

40 North Carolina,

41 County.

42 I,, Clerk of the Superior Court of said County, do hereby certify that,
43 whose place of residence is in (or) in Township,

1County, North Carolina, having this day satisfied me as to his, her (or) their good
 2 moral character, a license or permit is therefore hereby given said to purchase one
 3 ~~pistol~~ crossbow from any person, firm or corporation authorized to dispose of the same.

4 Thisday of, ~~19~~.....

5
 6 Clerk of the Superior Court

7 **"§ 14-409.3. Issuance or refusal of permit; appeal from refusal; grounds for refusal;**
 8 **clerk's fee.**

9 Upon application, the clerk of the superior court shall issue such license or permit to a
 10 resident of that county, unless the purpose of the permit is for collecting, in which case a
 11 clerk can issue a permit to a nonresident, when the clerk shall have fully satisfied himself
 12 by affidavits, oral evidence, or otherwise, as to the good moral character of the applicant
 13 therefor, and that such person, firm, or corporation desires the possession of the ~~weapon~~
 14 crossbow mentioned for (i) the protection of the home, business, person, family or
 15 property, (ii) target shooting, (iii) collecting, or (iv) hunting. If said clerk of the superior
 16 court shall not be so fully satisfied, he may, for good cause shown, decline to issue said
 17 license or permit and shall provide to said applicant within seven days of such refusal a
 18 written statement of the reason(s) for such refusal. An appeal from such refusal shall lie
 19 by way of petition to the chief judge of the district court for the district in which the
 20 application was filed. The determination by the court, on appeal, shall be upon the facts,
 21 the law, and the reasonableness of the clerk of the superior court's refusal, and shall be
 22 final. A permit may not be issued to the following persons: (i) one who is under an
 23 indictment or information for or has been convicted in any state, or in any court of the
 24 United States, of a felony (other than an offense pertaining to antitrust violations, unfair
 25 trade practices, or restraints of trade), except that if a person has been convicted and later
 26 pardoned or is not prohibited from purchasing a firearm under the Felony Firearms Act
 27 (Article 54A of this Chapter), he may obtain a permit; (ii) one who is a fugitive from
 28 justice; (iii) one who is an unlawful user of or addicted to marijuana or any depressant,
 29 stimulant, or narcotic drug (as defined in 21 U.S.C. section 802); (iv) one who has been
 30 adjudicated incompetent on the ground of mental illness or has been committed to any
 31 mental institution. ~~Provided, that nothing in this Article shall apply to officers authorized by~~
 32 ~~law to carry firearms if such officers identify themselves to the vendor or donor as being officers~~
 33 ~~authorized by law to carry firearms and state that the purpose for the purchase of the firearms is~~
 34 ~~directly related to the law officers' official duties.~~ The clerk of the superior court shall charge
 35 for his services upon issuing such license or permit a fee of five dollars (\$5.00). Each
 36 applicant for any such license or permit shall be informed by said clerk of the superior
 37 court within 30 days of the date of such application whether such license or permit will
 38 be granted or denied and, if granted, such license or permit shall be immediately issued to
 39 said applicant.

40 **"§ 14-409.4. Record of permits kept by clerk.**

41 The clerk of the superior court shall keep a book, to be provided by the board of
 42 commissioners of each county, in which he shall keep a record of all licenses or permits
 43 issued under this article, including the name, date, place of residence, age, former place

1 of residence, etc., of each such person, firm, or corporation to whom or which a license or
2 permit is issued.

3 **"§ 14-409.5. Dealer to keep record of sales.**

4 Every dealer in ~~pistols and other weapons mentioned in this Article~~ crossbows shall keep
5 an accurate record of all sales thereof, including the name, place of residence, date of
6 sale, etc., of each person, firm, or corporation to whom or which such sales are made,
7 which record shall be open to the inspection of any duly constituted State, county or
8 police officer, within this State.

9 ~~"§ 14t During the period of listing taxes in each year the owner or person in
10 possession or having the custody or care of any weapon mentioned in this
11 article is required to list the same specifically, as is now required for
12 listing personal property for taxes. Any person listing any such weapons
13 for taxes shall be required to designate his place of residence, including
14 local street address.~~

15 ~~"§ 14s The provisions of G. S. 14-409.1 and 14-409.4 to 14-409.6 shall apply to the
16 sale of pistols suitable for firing blank cartridges. The clerks of the
17 superior courts of all the counties of this State are authorized and may in
18 their discretion issue to any person, firm or corporation, in any such
19 county, a license or permit to purchase or receive any pistol suitable for
20 firing blank cartridges from any person, firm or corporation offering to
21 sell or dispose of the same, which said permit shall be in substantially the
22 following form:~~

23 ~~North Carolina,~~

24 ~~..... County.~~

25 I,, Clerk of the Superior Court of said county, do hereby certify that
26, whose place of residence is Street in (or) in
27 Township in County, North Carolina, having this day satisfied me that the
28 possession of a pistol suitable for firing blank cartridges will be used only for lawful
29 purposes, a permit is therefore given said ... to purchase said pistol from any
30 person, firm or corporation authorized to dispose of the same, this day of
31, 19

32

33 Clerk of Superior Court

34 The clerk shall charge for his services, upon issuing such permit, a fee of fifty cents
35 (~~50¢~~).

36 **"§ 14-409.8. Violation of § 14-409.5 ~~or 14~~. Any person, firm, or corporation violating
37 any of the provisions of G.S. 14-409.5 or 14-409.6 shall be guilty of a Class
38 2 misdemeanor.**

39 **"§ 14-409.9. Machine guns and other like weapons.**

40 (a) As used in this section, 'machine gun' or 'submachine gun' means any weapon
41 which shoots, is designed to shoot, or can be readily restored to shoot, automatically
42 more than one shot, without manual reloading, by a single function of the trigger. The
43 term shall also include the frame or receiver of any such weapon, any combination of

1 parts designed and intended for use in converting a weapon into a machine gun, and any
2 combination of parts from which a machine gun can be assembled if such parts are in the
3 possession or under the control of a person.

4 (b) It shall be unlawful for any person, firm or corporation to manufacture, sell,
5 give away, dispose of, use or possess machine guns, submachine guns, or other like
6 weapons as defined by subsection (a) of this section: Provided, however, that this
7 subsection shall not apply to the following:

8 Banks, merchants, and recognized business establishments for use in their respective
9 places of business, who shall first apply to and receive from the clerk of the superior
10 court of the county in which said business is located, a permit to possess the said
11 weapons for the purpose of defending the said business; officers and soldiers of the
12 United States Army, when in discharge of their official duties, officers and soldiers of the
13 militia and the State guard when called into actual service, officers of the State, or of any
14 county, city or town, charged with the execution of the laws of the State, when acting in
15 the discharge of their official duties; the manufacture, use or possession of such weapons
16 for scientific or experimental purposes when such manufacture, use or possession is
17 lawful under federal laws and the weapon is registered with a federal agency, and when a
18 permit to manufacture, use or possess the weapon is issued by the sheriff of the county in
19 which the weapon is located. Provided, further, that any bona fide resident of this State
20 who now owns a machine gun used in former wars as a relic or souvenir, may retain and
21 keep same as his or her property without violating the provisions of this section upon his
22 reporting said ownership to the clerk of the superior court of the county in which said
23 person lives.

24 (c) Any person violating any of the provisions of this section shall be guilty of a
25 Class I felony."

26 Sec. 4. Chapter 113 of the General Statutes is amended by adding a new
27 Article to read:

28 **"ARTICLE 21C.**

29 **"SPORT SHOOTING RANGES.**

30 **"§ 113-290.25. Sport shooting ranges; definitions; immunity.**

31 (a) The following definitions apply in this section:

32 (1) Generally accepted operation practices. – Those practices adopted by
33 the Wildlife Resources Commission that are established by a nationally
34 recognized nonprofit membership organization that provides voluntary
35 firearm safety programs that include training individuals in safe hunting
36 and use of firearms, which practices are developed with consideration of
37 all information reasonably available regarding the operation of shooting
38 ranges. The generally accepted operation practices shall be reviewed at
39 least every five years by the Wildlife Resources Commission and
40 revised as the Commission considers necessary. The Commission shall
41 adopt generally accepted operation practices within 90 days of the
42 effective date of subsection (c) of this section.

1 (2) Person. – An individual, proprietorship, partnership, corporation, club,
2 governmental entity, or other legal entity.

3 (3) Sport shooting range or range. – An area delegated and operated for the
4 use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black
5 powder, or any other similar sport shooting.

6 (b) Notwithstanding any other provision of law, and in addition to other protection
7 provided in this Article, a person who owns or operates or uses a sport shooting range
8 that conforms to generally accepted operation practices in this State is not subject to civil
9 liability or criminal prosecution in any matter relating to noise or noise pollution resulting
10 from the operation or use of the range if the range is in compliance with any noise control
11 laws or ordinances that applied to the range and its operations at the time of construction
12 or initial operation of the range.

13 In addition to other protection provided by this section, a person who owns, operates
14 or uses a sport shooting range that conforms to generally accepted operation practices is
15 not subject to an action for nuisance, and a court of the State shall not enjoin or restrain
16 the use or operation of a range on the basis of noise or noise pollution. If the range is in
17 compliance with any noise control laws or ordinance that applied to the range and its
18 operation at the time of construction or initial operation of the range.

19 Rules or regulations adopted by any State department or agency for limiting levels of
20 noise in terms of decibel level which may occur in the outdoor atmosphere do not apply
21 to a sport shooting range exempted from liability under this Article. However, this
22 section does not restrict the application of any provisions of the generally accepted
23 operation practices.

24 (c) A sport shooting range that is operated and is not in violation of existent laws
25 at the time of the enactment of an ordinance shall be permitted to continue in operation
26 even if the operation of the sport shooting range at a later date does not conform to the
27 new ordinance or an amendment to an existing ordinance.

28 A sport shooting range that is in existence as of the effective date of this section and
29 operation in compliance with generally accepted operation practices, even if not in
30 compliance with an ordinance of a local unit of government, shall be permitted to do all
31 the following within its preexisting geographic boundaries if in compliance with
32 generally accepted operation practices:

33 (1) Repair, remodel, or reinforce any conforming or unconforming building
34 or structure as may be necessary in the interest of public safety or to
35 secure the continued use of the building or structure.

36 (2) Reconstruct, repair, restore, or resume the use of a nonconforming
37 building damaged by fire, collapse, explosion, act of God, or act of war
38 occurring after the effective date of the damage or settlement of any
39 property damage claim. If reconstruction, repair, or restoration is not
40 completed within one year, continuation of the nonconforming use may
41 be terminated in the discretion of the local unit of government.

42 (3) Do anything authorized under generally accepted operation practices,
43 including the following:

1 a. Expand or increase its membership or opportunities for public
2 participation.

3 b. Expand or increase events and activities.

4 (d) Each person who participates in sport shooting at a sport shooting range that
5 conforms to generally accepted operation practices accepts the risk associated with the
6 sport to the extent the risks are obvious and inherent. Those risks include injuries that
7 may result from noise, discharge of projectile or shot, malfunction of sport shooting
8 equipment not owned by the sport shooting range, natural variations in terrain, surface or
9 subsurface snow or leg conditions, bare spots, rocks, trees, and other forms of natural
10 growth or debris."

11 Sec. 5. There is appropriated from the General Fund to the Department of
12 Justice for fiscal year 1995-96 the sum of nine hundred seven thousand one hundred
13 thirty-three dollars (\$907,133) and for fiscal year 1996-97 the sum of eight hundred four
14 thousand two hundred sixty-seven dollars (\$804,267) as the gross cost of implementing
15 Section 1 of this act. Net receipts, estimated at six hundred eighty-six thousand fifty-five
16 dollars (\$686,055) for fiscal year 1995-96 and one million sixty-two thousand one
17 hundred ten dollars (\$1,062,110) for fiscal year 1996-97 shall be deposited in the General
18 Fund.

19 Sec. 6. This act becomes effective January 1, 1996.