

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 919
Committee Substitute Favorable 5/4/95
Committee Substitute #2 Favorable 6/27/95

Short Title: Brady Bill Implementation.

(Public)

Sponsors:

Referred to:

April 12, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT THE FEDERAL BRADY HANDGUN VIOLENCE
3 PROTECTION ACT.

4 The General Assembly of North Carolina enacts:

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

7 **"ARTICLE 53B.**

8 **"HANDGUNS.**

9 **"§ 14-409.20. Legislative intent.**

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

13 (b) This Article shall in all respects be construed and administered in conformity
14 with the provisions of the federal Brady Handgun Violence Protection Act. Without
15 limiting the generality of the foregoing, it is specifically intended that this Article shall
16 constitute a State law requiring verification by a State official that information available
17 does not indicate that possession of a handgun by a proposed transferee would be in
18 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) Dealer. – Any person licensed as a dealer pursuant to 18 U.S.C. § 921, et seq., and G.S. 105-80.
- (2) Department. – Department of Justice.
- (3) Handgun. – A pistol, revolver, or other gun that has a short stock and is designed to be held and fired by the use of a single hand.
- (4) Involuntarily committed. – Hospitalized as an inpatient in any mental health facility pursuant to Article 5 of Chapter 122C of the General Statutes or hospitalized as an inpatient in any mental health facility as a result of being adjudicated mentally incompetent to stand trial or being adjudicated not guilty by reason of insanity at the time of the crime pursuant to Article 80 of Chapter 15A of the General Statutes.

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

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

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

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

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

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

1 (1) Review all criminal history records electronically available to the
2 Department to determine if the potential buyer or transferee is
3 prohibited from receipt or possession of a handgun pursuant to State or
4 federal law; and

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

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

17 (c) If a person has been convicted of a felony and is prohibited from purchasing
18 the handgun under federal law, but G.S. 14-415.1 permits the person to possess the
19 handgun on that person's premises, the Department shall not issue a unique identification
20 number to the dealer as part of the telephone call or return telephone call under this
21 Article. The Department shall issue the number if that person provides evidence to the
22 Department, in accordance with procedures established by the Department, that G.S. 14-
23 415.1 would permit the person to purchase the gun.

24 **"§ 14-409.24. Problems preventing check from completion by end of day; exception**
25 **for calls received near end of day.**

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

1 (b) A licensed dealer is not required to comply with the requirements of this
2 Article in the event of unavailability of telephone service at the licensed premises due to
3 the failure of the entity which provides telephone service in the State, region, or other
4 geographical area in which the dealer is located to provide telephone service to the
5 premises of the dealer due to the location of such premises or the interruption of
6 telephone service by reason of hurricane, tornado, flood, natural disaster, or other act of
7 God, war, invasion, insurrection, riot, or other bona fide emergency, or other reason
8 beyond the control of the dealer.

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

13 **"§ 14-409.25. Fees.**

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

16 (b) The Department shall charge and collect a fee of three hundred dollars
17 (\$300.00) each fiscal year from each dealer requesting a criminal history records check
18 pursuant to G.S. 14-409.23. The dealer must also show evidence of the license required
19 under 18 U.S.C. § 921, et seq., the State license under G.S. 105-80(a), and any city or
20 county license required under G.S. 105-80(c).

21 **"§ 14-409.26. No departmental lists of handgun purchasers permitted.**

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

26 **"§ 14-409.27. Seven-day availability of record checks.**

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

32 **"§ 14-409.28. Right to appeal denial of license; cause of action against the State for**
33 **failure to correct.**

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

1 person's residence for an order directing the Department to issue the unique transaction
2 number. The superior court shall hear the appeal on the record below. If the information
3 provided demonstrates that the person is not prohibited from receipt or possession of a
4 handgun by State or federal law, the Department shall destroy any records it maintains
5 which contain any information derived from the criminal history record check set forth in
6 G.S. 14-409.22(1).

7 **"§ 14-409.29. Rule-making authority; felony violation of confidentiality.**

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

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

15 **"§ 14-409.30. Immunity of seller or transferor from liability.**

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

22 **"§ 14-409.31. Exceptions to this Article.**

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

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

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

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

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

39 (b) Notwithstanding any other provisions of this Article in any case where a
40 person has transferred a handgun as collateral for a loan or as pledged goods in a pawn
41 transaction and the transaction has been carried out pursuant to the provisions of this
42 Article, upon the person reclaiming or redeeming the handgun from the dealer or upon
43 the person transferring any other handgun as collateral or pledged goods to the same

1 dealer or reclaiming the same at any time during the calendar year as the original
2 transaction with the dealer, the provisions of this Article shall not apply to the transfers
3 subsequent to the original transfer during the calendar year.

4 **"§ 14-409.32. Violations of this Article; penalties.**

5 (a) Any licensed dealer, employee of such dealer, or any government employee or
6 officer, who willfully and intentionally requests a criminal history records check from the
7 Department for any purpose other than compliance with this Article or willfully and
8 intentionally disseminates any criminal history records information to any person other
9 than the subject of the information is guilty of a Class 2 misdemeanor. A dealer is not
10 liable for acts of an employee of that dealer unless the action of the employee was at the
11 direction of the dealer.

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

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

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

23 **"§ 14-409.33. Report to General Assembly.**

24 The Department shall provide the Speaker of the House of Representatives and the
25 President Pro Tempore of the Senate an annual report including the number of inquiries
26 made pursuant to this Article for the prior calendar year. The report shall include the
27 number of inquiries received from dealers, the number of inquiries resulting in a
28 determination that the potential buyer or transferee was prohibited from receipt or
29 possession of a handgun pursuant to State or federal law, the estimated costs of
30 administering this Article, the number of instances in which a person requests approval
31 pursuant to G.S. 14-409.28(a), the number of instances in which the superior court issued
32 an order directing the Department to issue a unique transaction number pursuant to G.S.
33 14-409.28(a), and the number of instances in which the Department was asked to issue a
34 unique identification number under G.S. 14-409.23(c)."

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

36 **"ARTICLE 52A.**

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

38 **"§ 14-402. Sale of certain ~~weapons~~ crossbows without permit forbidden.**

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

1 It shall be unlawful for any person or persons to receive from any postmaster, postal
2 clerk, employee in the parcel post department, rural mail carrier, express agent or
3 employee, railroad agent or employee within the State of North Carolina any ~~pistol or~~
4 crossbow without having in his or their possession and without exhibiting at the time of
5 the delivery of the same and to the person delivering the same the permit from the sheriff
6 as provided in G.S. 14-403. Any person violating the provisions of this section shall be
7 guilty of a Class 2 misdemeanor.

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

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

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

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

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

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

21 **"§ 14-403. Permit issued by sheriff; form of permit.**

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

27 North Carolina,

28 County.

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

34 Thisday of, 19.....

35

36 Sheriff.

37 **"§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal;
38 sheriff's fee.**

39 Upon application, the sheriff shall issue such license or permit to a resident of that
40 county unless the purpose of the permit is for collecting, in which case a sheriff can issue
41 a permit to a nonresident when the sheriff shall have fully satisfied himself by affidavits,
42 oral evidence, or otherwise, as to the good moral character of the applicant therefor, and
43 that such person, firm, or corporation desires the possession of the ~~weapon~~ crossbow

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

26 **"§ 14-405. Record of permits kept by sheriff.**

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

31 **"§ 14-406. Dealer to keep record of sales.**

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

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

~~§14d The provisions of G.S. 14-402 and 14-405 to 14-407 shall apply to the sale of pistols suitable for firing blank cartridges. The clerks of the superior courts of all the counties of this State are authorized and may in their discretion issue to any person, firm or corporation, in any such county, a license or permit to purchase or receive any pistol suitable for firing blank cartridges from any person, firm or corporation offering to sell or dispose of the same, which said permit shall be in substantially the following form:~~

~~North Carolina~~

~~..... County~~

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

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

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

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

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

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

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

~~Banks, merchants, and recognized business establishments for use in their respective places of business, who shall first apply to and receive from the sheriff of the county in which said business is located, a permit to possess the said weapons for the purpose of defending the said business; officers and soldiers of the United States Army, when in discharge of their official duties, officers and soldiers of the militia and the State guard when called into actual service, officers of the State, or of any county, city or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties; the manufacture, use or possession of such weapons for scientific or experimental purposes when such manufacture, use or possession is lawful under federal~~

1 laws and the weapon is registered with a federal agency, and when a permit to
2 manufacture, use or possess the weapon is issued by the sheriff of the county in which the
3 weapon is located. Provided, further, that any bona fide resident of this State who now
4 owns a machine gun used in former wars, as a relic or souvenir, may retain and keep
5 same as his or her property without violating the provisions of this section upon his
6 reporting said ownership to the sheriff of the county in which said person lives.

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

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

10 **"ARTICLE 53.**

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

12 **"§ 14-409.1. Sale of certain ~~weapons~~ crossbows without permit forbidden.**

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

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

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

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

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

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

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

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

38 **"§ 14-409.2. Permit issued by clerk of court; form of permit.**

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

1 North Carolina,
 2 County.

3 I,, Clerk of the Superior Court of said County, do hereby certify that,
 4 whose place of residence is in (or) in Township,
 5County, North Carolina, having this day satisfied me as to his, her (or) their good
 6 moral character, a license or permit is therefore hereby given said to purchase one
 7 ~~pistol~~ crossbow from any person, firm or corporation authorized to dispose of the same.

8 Thisday of, ~~19~~.....
 9
 10 Clerk of the Superior Court

11 **"§ 14-409.3. Issuance or refusal of permit; appeal from refusal; grounds for refusal;
 12 clerk's fee.**

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

1 **"§ 14-409.4. Record of permits kept by clerk.**

2 The clerk of the superior court shall keep a book, to be provided by the board of
3 commissioners of each county, in which he shall keep a record of all licenses or permits
4 issued under this article, including the name, date, place of residence, age, former place
5 of residence, etc., of each such person, firm, or corporation to whom or which a license or
6 permit is issued.

7 **"§ 14-409.5. Dealer to keep record of sales.**

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

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

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

27 North Carolina,

28 County.

29 I,, Clerk of the Superior Court of said county, do hereby certify that
30, whose place of residence is Street in (or) in
31 Township in County, North Carolina, having this day satisfied me that the
32 possession of a pistol suitable for firing blank cartridges will be used only for lawful
33 purposes, a permit is therefore given said ... to purchase said pistol from any
34 person, firm or corporation authorized to dispose of the same, this day of
35, 19

36

37 Clerk of Superior Court

38 The clerk shall charge for his services, upon issuing such permit, a fee of fifty cents
39 (50¢).

40 **"§ 14-409.8. Violation of § 14-409.5 ~~or 14~~. Any person, firm, or corporation violating**
41 **any of the provisions of G.S. 14-409.5 or 14-409.6 shall be guilty of a Class**
42 **2 misdemeanor.**

43 **"§ 14-409.9. Machine guns and other like weapons.**

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

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

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

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

30 Sec. 4. There is appropriated from the General Fund to the Department of
31 Justice for fiscal year 1995-96 the sum of nine hundred seven thousand one hundred
32 thirty-three dollars (\$907,133) and for fiscal year 1996-97 the sum of eight hundred four
33 thousand two hundred sixty-seven dollars (\$804,267) as the gross cost of implementing
34 Section 1 of this act. Net receipts, estimated at six hundred eighty-six thousand fifty-five
35 dollars (\$686,055) for fiscal year 1995-96 and one million sixty-two thousand one
36 hundred ten dollars (\$1,062,110) for fiscal year 1996-97 shall be deposited in the General
37 Fund.

38 Sec. 5. This act becomes effective January 1, 1996.