

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
Fourth Edition Engrossed 6/28/95

Short Title: Brady Bill Implementation.

(Public)

Sponsors:

Referred to:

April 12, 1995

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

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

1 does not indicate that possession of a handgun by a proposed transferee would be in
2 violation of law, as authorized under 18 U.S.C. § 922(s)(1)(D).

3 **"§ 14-409.21. Definitions.**

4 The following definitions apply in this Article:

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

16 **"§ 14-409.22. Sale and delivery of handguns.**

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

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

36 (b) The Department jointly with the Administrative Office of the Courts and the
37 Department of Human Resources shall report to the General Assembly no later than May
38 1, 1996, on the feasibility and costs of including an involuntary commitment records
39 check on records to be made electronically available to the agency. Such report shall
40 recommend changes in this Article and in confidentiality statutes that might be necessary
41 to implement such a check.

42 **"§ 14-409.23. Instant criminal history records check.**

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

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

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

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

19 (c) If a person has been convicted of a felony and is prohibited from purchasing
20 the handgun under federal law, but G.S. 14-415.1 permits the person to possess the
21 handgun on that person's premises, the Department shall not issue a unique identification
22 number to the dealer as part of the telephone call or return telephone call under this
23 Article. The Department shall issue the number if that person provides evidence to the
24 Department, in accordance with procedures established by the Department, that G.S. 14-
25 415.1 would permit the person to purchase the gun.

26 **"§ 14-409.24. Problems preventing check from completion by end of next day.**

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

42 (b) A licensed dealer is not required to comply with the requirements of this
43 Article in the event of unavailability of telephone service at the licensed premises due to

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

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

11 **"§ 14-409.25. Fees.**

12 (a) The Department may charge and collect a fee of six dollars (\$6.00) for each
13 criminal history records check conducted pursuant to G.S. 14-409.23.

14 (b) The Department shall charge and collect a fee of five hundred dollars
15 (\$500.00) each fiscal year from each dealer requesting a criminal history records check
16 pursuant to G.S. 14-409.23. The dealer must also show evidence of the license required
17 under 18 U.S.C. § 921, et seq., the State license under G.S. 105-80(a), and any city or
18 county license required under G.S. 105-80(c).

19 (c) The Department may charge each dealer an equipment rental fee of up to eight
20 dollars (\$8.00) per month.

21 (d) The Department may provide for all fees payable under subsections (a) or (c)
22 of this section to be collected by a service provider under contract with the Department.

23 **"§ 14-409.26. No departmental lists of handgun purchasers permitted.**

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

28 **"§ 14-409.27. Seven-day availability of record checks.**

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

34 **"§ 14-409.28. Right to appeal denial of license; cause of action against the State for**
35 **failure to correct.**

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

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

9 **"§ 14-409.29. Rule-making authority; felony violation of confidentiality.**

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

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

17 **"§ 14-409.30. Immunity of seller or transferor from liability.**

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

24 **"§ 14-409.31. Exceptions to this Article.**

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

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

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

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

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

41 (b) Notwithstanding any other provisions of this Article in any case where a
42 person has transferred a handgun as collateral for a loan or as pledged goods in a pawn
43 transaction and the transaction has been carried out pursuant to the provisions of this

1 Article, upon the person reclaiming or redeeming the handgun from the dealer or upon
2 the person transferring any other handgun as collateral or pledged goods to the same
3 dealer or reclaiming the same at any time during the calendar year as the original
4 transaction with the dealer, the provisions of this Article shall not apply to the transfers
5 subsequent to the original transfer during the calendar year.

6 **"§ 14-409.32. Violations of this Article; penalties.**

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

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

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

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

25 **"§ 14-409.33. Report to General Assembly.**

26 The Department shall provide the Speaker of the House of Representatives and the
27 President Pro Tempore of the Senate an annual report including the number of inquiries
28 made pursuant to this Article for the prior calendar year. The report shall include the
29 number of inquiries received from dealers, the number of inquiries resulting in a
30 determination that the potential buyer or transferee was prohibited from receipt or
31 possession of a handgun pursuant to State or federal law, the estimated costs of
32 administering this Article, the number of instances in which a person requests approval
33 pursuant to G.S. 14-409.28(a), the number of instances in which the superior court issued
34 an order directing the Department to issue a unique transaction number pursuant to G.S.
35 14-409.28(a), and the number of instances in which the Department was asked to issue a
36 unique identification number under G.S. 14-409.23(c)."

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

38 **"ARTICLE 52A.**

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

40 **"§ 14-402. Sale of certain ~~weapons~~ crossbows without permit forbidden.**

41 (a) It shall be unlawful for any person, firm, or corporation in this State to sell,
42 give away, or transfer, or to purchase or receive, at any place within this State from any
43 other place within or without the State any ~~pistol or~~ crossbow unless a license or permit

1 therefor has first been obtained by the purchaser or receiver from the sheriff of the county
 2 in which that purchaser or receiver resides.

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

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

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

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

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

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

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

23 **"§ 14-403. Permit issued by sheriff; form of permit.**

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

29 North Carolina,
 30 County.

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

36 Thisday of, ~~19~~.....

37

38 Sheriff.

39 **"§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal;
 40 sheriff's fee.**

41 Upon application, the sheriff shall issue such license or permit to a resident of that
 42 county unless the purpose of the permit is for collecting, in which case a sheriff can issue
 43 a permit to a nonresident when the sheriff shall have fully satisfied himself by affidavits,

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

28 **"§ 14-405. Record of permits kept by sheriff.**

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

33 **"§ 14-406. Dealer to keep record of sales.**

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

39 ~~§14n During the period of listing taxes in each year the owner or person in~~
40 ~~possession or having the custody or care of any weapon mentioned in this~~
41 ~~article is required to list the same specifically, as is now required for~~
42 ~~listing personal property for taxes. Any person listing any such weapon for~~

1 ~~taxes shall be required to designate his place of residence, including local~~
 2 ~~street address.~~

3 ~~§14d The provisions of G.S. 14-402 and 14-405 to 14-407 shall apply to the sale of~~
 4 ~~pistols suitable for firing blank cartridges. The clerks of the superior~~
 5 ~~courts of all the counties of this State are authorized and may in their~~
 6 ~~discretion issue to any person, firm or corporation, in any such county, a~~
 7 ~~license or permit to purchase or receive any pistol suitable for firing blank~~
 8 ~~cartridges from any person, firm or corporation offering to sell or dispose~~
 9 ~~of the same, which said permit shall be in substantially the following form:~~

10 North Carolina

11 County

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

18

19 Clerk of Superior Court

20 The clerk shall charge for his services, upon issuing such permit, a fee of fifty cents
 21 (50¢).

22 "§ 14-408. Violation of "§ 14i **Any person, firm, or corporation violating any of the**
 23 **provisions of G.S. 14-406 or 14-407 shall be guilty of a Class 2**
 24 **misdemeanor.**

25 "**§ 14-409. Machine guns and other like weapons.**

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

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

37 Banks, merchants, and recognized business establishments for use in their respective
 38 places of business, who shall first apply to and receive from the sheriff of the county in
 39 which said business is located, a permit to possess the said weapons for the purpose of
 40 defending the said business; officers and soldiers of the United States Army, when in
 41 discharge of their official duties, officers and soldiers of the militia and the State guard
 42 when called into actual service, officers of the State, or of any county, city or town,
 43 charged with the execution of the laws of the State, when acting in the discharge of their

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

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

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

12 **"ARTICLE 53.**

13 **"~~SALE OF WEAPONS~~ CROSSBOWS IN CERTAIN OTHER COUNTIES.**

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

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

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

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

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

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

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

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

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

40 **"§ 14-409.2. Permit issued by clerk of court; form of permit.**

41 The clerks of the superior courts of any and all counties of this State are hereby
42 authorized and directed to issue to any person, firm, or corporation in any such county a
43 license or permit to purchase or receive any ~~weapon~~ crossbow mentioned in this Article

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

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 in (or) in Township,
 7County, North Carolina, having this day satisfied me as to his, her (or) their good
 8 moral character, a license or permit is therefore hereby given said to purchase one
 9 ~~pistol~~ crossbow from any person, firm or corporation authorized to dispose of the same.

10 Thisday of, ~~19~~.....

11
 12 Clerk of the Superior Court

13 **"§ 14-409.3. Issuance or refusal of permit; appeal from refusal; grounds for refusal;**
 14 **clerk's fee.**

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

1 be granted or denied and, if granted, such license or permit shall be immediately issued to
 2 said applicant.

3 **"§ 14-409.4. Record of permits kept by clerk.**

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

9 **"§ 14-409.5. Dealer to keep record of sales.**

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

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

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

29 North Carolina,
 30 County.

31 I,, Clerk of the Superior Court of said county, do hereby certify that
 32, whose place of residence is Street in (or) in
 33 Township in County, North Carolina, having this day satisfied me that the
 34 possession of a pistol suitable for firing blank cartridges will be used only for lawful
 35 purposes, a permit is therefore given said ... to purchase said pistol from any
 36 person, firm or corporation authorized to dispose of the same, this day of
 37, 19

38
 39 Clerk of Superior Court

40 The clerk shall charge for his services, upon issuing such permit, a fee of fifty cents
 41 (~~50¢~~).

1 "§ 14-409.8. Violation of § 14-409.5-~~or~~ 14. Any person, firm, or corporation violating
2 any of the provisions of G.S. 14-409.5 or 14-409.6 shall be guilty of a Class
3 2 misdemeanor.

4 "§ 14-409.9. Machine guns and other like weapons.

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

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

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

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

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

42 Sec. 5. This act becomes effective March 1, 1996.