

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 398
HOUSE BILL 90

AN ACT TO PROVIDE THAT A PERSON WHO MEETS SPECIFIED STATUTORY CRITERIA MAY CARRY A CONCEALED HANDGUN IF THE PERSON HAS OBTAINED A CONCEALED HANDGUN PERMIT, TO AUTHORIZE SHERIFFS TO ISSUE CONCEALED HANDGUN PERMITS, TO ESTABLISH THE CRITERIA THAT MUST BE SATISFIED TO RECEIVE THE PERMIT, TO ESTABLISH THE PROCEDURE FOR THE ISSUANCE OF A CONCEALED HANDGUN PERMIT, TO INCREASE THE PENALTY FOR CARRYING A CONCEALED HANDGUN WITHOUT A PERMIT, AND TO MAKE CONFORMING STATUTORY CHANGES.

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 54B.

"Concealed Handgun Permit.

"§ 14-415.10. Definitions.

The following definitions apply to this Article:

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

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

(a) Any person who has a concealed handgun permit may carry a concealed handgun unless otherwise specifically prohibited by law. The person shall carry the permit together with valid identification whenever the person is carrying a concealed handgun, shall disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun when approached or addressed by the officer, and shall display both the permit and the proper identification upon the request of a law enforcement officer.

(b) The sheriff shall issue a permit to carry a concealed handgun to a person who qualifies for a permit under G.S. 14-415.12. The permit shall be valid throughout the State for a period of three years from the date of issuance.

(c) A permit does not authorize a person to carry a concealed handgun in the areas prohibited by G.S. 14-269.2, 14-269.3, 14-269.4, and 14-277.2, in any area

prohibited by 18 U.S.C. § 922 or any other federal law, in a law enforcement or correctional facility, in a building housing only State or federal offices, in an office of the State or federal government that is not located in a building exclusively occupied by the State or federal government, a financial institution, or any other premises where notice that carrying a concealed handgun is prohibited by the posting of a conspicuous notice or statement by the person in legal possession or control of the premises. It shall be unlawful for a person, with or without a permit, to carry a concealed handgun while consuming alcohol or at any time while the person has remaining in his body any alcohol or in his blood a controlled substance previously consumed, but a person does not violate this condition if a controlled substance in his blood was lawfully obtained and taken in therapeutically appropriate amounts.

(d) A person who is issued a permit shall notify the sheriff who issued the permit of any change in the person's permanent address within 30 days after the change of address. If a permit is lost or destroyed, the person to whom the permit was issued shall notify the sheriff who issued the permit of the loss or destruction of the permit. A person may obtain a duplicate permit by submitting to the sheriff a notarized statement that the permit was lost or destroyed and paying the required duplicate permit fee.

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

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

- (1) The applicant is a citizen of the United States and has been a resident of the State 30 days or longer immediately preceding the filing of the application.
- (2) The applicant is 21 years of age or older.
- (3) The applicant does not suffer from a physical or mental infirmity that prevents the safe handling of a handgun.
- (4) The applicant has successfully completed an approved firearms safety and training course which involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force. The North Carolina Criminal Justice Education and Training Standards Commission shall prepare and publish general guidelines for courses and qualifications of instructors which would satisfy the requirements of this subdivision. An approved course shall be any course which satisfies the requirements of this subdivision and is certified or sponsored by:
 - a. The North Carolina Criminal Justice Education and Training Standards Commission,
 - b. The National Rifle Association, or
 - c. A law enforcement agency, college, private or public institution or organization, or firearms training school, taught by instructors certified by the North Carolina Criminal Justice Education and Training Standards Commission or the National Rifle Association.

Every instructor of an approved course shall file a copy of the firearms course description, outline, and proof of certification annually, or upon modification of the course if more frequently, with the North Carolina Criminal Justice Education and Training Standards Commission.

- (5) The applicant is not disqualified under subsection (b) of this section.
- (b) The sheriff shall deny a permit to an applicant who:
- (1) Is ineligible to own, possess, or receive a firearm under the provisions of State or federal law.
 - (2) Has formal charges pending for a crime punishable by imprisonment for a term exceeding sixty days.
 - (3) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding sixty days.
 - (4) Is a fugitive from justice.
 - (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.
 - (6) Is currently, or has been previously adjudicated or administratively determined to be, lacking mental capacity or mentally ill.
 - (7) Is or has been discharged from the armed forces under conditions other than honorable.
 - (8) Is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including but not limited to, a violation of a misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2), 14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2, or 14-415.19(a), unless five years has elapsed since disposition or pardon has occurred prior to the date on which the application is submitted.
 - (9) Has had entry of a prayer for judgment continued for a criminal offense which would disqualify the person from obtaining a concealed handgun permit.
 - (10) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify him from obtaining a concealed handgun permit.
 - (11) Has been convicted of an impaired driving offense under G.S. 20-138.1, 20-138.2, or 20-138.3 within three years prior to the date on which the application is submitted.

"§ 14-415.13. Application for a permit; fingerprints.

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

- (1) An application, completed under oath, on a form provided by the sheriff.
- (2) A nonrefundable permit fee.
- (3) A full set of fingerprints of the applicant administered by a law enforcement agency of this State.
- (4) An original certificate of completion of an approved course, adopted and distributed by the North Carolina Criminal Justice Education and Training Standards Commission, signed by the certified instructor of the course attesting to the successful completion of the course by the applicant which shall verify that the applicant is competent with a handgun and knowledgeable about the laws governing the carrying of a concealed handgun and the use of deadly force.
- (5) A release, in a form to be prescribed by the Administrative Office of the Courts, that authorizes and requires disclosure to the sheriff of any records concerning the mental health or capacity of the applicant.

(b) The sheriff shall submit the fingerprints to the State Bureau of Investigation for a records check of State and national databases. The State Bureau of Investigation shall submit the fingerprints to the Federal Bureau of Investigation as necessary. The cost of processing the set of fingerprints shall be charged to an applicant as provided by G.S. 14-415.19. The fingerprints of an applicant who is issued a permit shall be retained for future use in the event the permit is renewed, and shall be retained until any valid permit expires and is not renewed.

"§ 14-415.14. Application form to be provided by sheriff; information to be included in application form.

(a) The sheriff shall make permit applications readily available at the office of the sheriff or at other public offices in the sheriff's jurisdiction. The permit application shall be in triplicate, in a form to be prescribed by the Administrative Office of the Courts, and shall include the following information with regard to the applicant: name, address, physical description, signature, date of birth, social security number, military status, and the drivers license number or State identification card number of the applicant if used for identification in applying for the permit.

(b) The permit application shall also contain a warning substantially as follows:

'CAUTION: Federal law and State law on the possession of handguns and firearms differ. If you are prohibited by federal law from possessing a handgun or a firearm, you may be prosecuted in federal court. A State permit is not a defense to a federal prosecution.'

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

(a) Except as permitted under subsection (b) of this section, within 90 days after receipt of the items listed in G.S. 14-415.13 from an applicant, the sheriff shall either issue or deny the permit. The sheriff may conduct any investigation necessary to determine the qualification or competency of the person applying for the permit, including record checks.

(b) Upon presentment to the sheriff of the items required under G.S. 14-415.13(a)(1), (2), and (3), the sheriff may issue a temporary permit for a period not to

exceed 90 days to a person who the sheriff reasonably believes is in an emergency situation that may constitute a risk of safety to the person, the person's family or property. The temporary permit may not be renewed and may be revoked by the sheriff without a hearing.

(c) A person's application for a permit shall be denied only if the applicant fails to qualify under the criteria listed in this Article. If the sheriff denies the application for a permit, the sheriff shall, within 90 days, notify the applicant in writing, stating the grounds for denial. An applicant may appeal the denial, revocation, or nonrenewal of a permit by petitioning a district court judge of the district in which the application was filed. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal. The determination by the court shall be final.

"§ 14-415.16. Renewal of permit.

The holder of a permit shall apply to renew the permit at least 30 days prior to its expiration date by filing with the sheriff of the county in which the person resides a renewal form provided by the sheriff's office, a notarized affidavit stating that the permittee remains qualified under the criteria provided in this Article, and a renewal fee. Upon receipt of the completed renewal application and appropriate payment of fees, the sheriff shall determine if the permittee remains qualified to hold a permit in accordance with the provisions of G.S. 14-415.12. The permittee's criminal history shall be updated, and the sheriff may waive the requirement of taking another firearms safety and training course. If the permittee applies for a renewal of the permit within 30 days of its expiration date and if the permittee remains qualified to have a permit under G.S. 14-415.12, the sheriff shall renew the permit.

"§ 14-415.17. Permit; sheriff to retain and make available to law enforcement agencies a list of permittees.

The permit shall be in a certificate form, as prescribed by the Administrative Office of the Courts, that is approximately the size of a North Carolina drivers license. It shall bear the signature, name, address, date of birth, and social security number of the permittee, and the drivers license identification number used in applying for the permit. The sheriff shall maintain a listing of those persons who are issued a permit and any pertinent information regarding the issued permit. The permit information shall be available upon request to all State and local law enforcement agencies.

Within five days of the date a permit is issued, the sheriff shall send a copy of the permit to the State Bureau of Investigation. The State Bureau of Investigation shall make this information available to law enforcement officers and clerks of court on a statewide system.

"§ 14-415.18. Revocation or suspension of permit.

(a) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides may revoke a permit subsequent to a hearing for any of the following reasons:

- (1) Fraud or intentional or material misrepresentation in the obtaining of a permit.

- (2) Misuse of a permit, including lending or giving a permit to another person, duplicating a permit, or using a permit with the intent to unlawfully cause harm to a person or property.
- (3) The doing of an act or existence of a condition which would have been grounds for the denial of the permit by the sheriff.
- (4) The violation of any of the terms of this Article.
- (5) The applicant is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the applicant from initially receiving a permit.

A permittee may appeal the revocation, or nonrenewal of a permit by petitioning a district court judge of the district in which the applicant resides. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.

(b) The court may suspend a permit as part of and for the duration of any orders permitted under Chapter 50B of the General Statutes.

"§ 14-415.19. Fees.

(a) The permit fees assessed under this Article are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer to be used to pay the costs of the criminal record checks and investigations required under this Article. The permit fees are as follows:

Application fee\$50.00
 Renewal fee\$50.00
 Duplicate permit fee\$15.00

(b) An additional fee, not to exceed ten dollars (\$10.00), shall be collected from an applicant for a permit to pay for the costs of processing the applicant's fingerprints. This fee shall be retained by the law enforcement office that processes the fingerprints.

"§ 14-415.20. No liability of sheriff.

A sheriff who issues or refuses to issue a permit to carry a concealed handgun under this Article shall not incur any civil or criminal liability as the result of the performance of the sheriff's duties under this Article.

"§ 14-415.21. Violations of this Article punishable as an infraction and a Class 2 misdemeanor.

(a) A person who has been issued a valid permit who is found to be carrying a concealed handgun without the permit in the person's possession or who fails to disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun, as required by G.S. 14-415.11, shall be guilty of an infraction for the first offense and shall be punished in accordance with G.S. 14-3.1. In lieu of paying a fine for the first offense, the person may surrender the permit. Subsequent offenses for failing to carry a valid permit or for failing to make the necessary disclosures to a law enforcement officer as required by G.S. 14-415.11 shall be punished in accordance with subsection (b) of this section.

(b) A person who violates the provisions of this Article other than as set forth in subsection (a) of this section is guilty of a Class 2 misdemeanor.

"§ 14-415.22. Construction of Article.

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

"§ 14-415.23. Statewide uniformity.

It is the intent of the General Assembly to prescribe a uniform system for the regulation of legally carrying a concealed handgun. To insure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun. A unit of local government may adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.11(c), on local government buildings, their appurtenant premises, and parks."

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

"§ 14-269. Carrying concealed weapons.

(a) ~~It shall be unlawful for any person, except when on his own premises, person willfully and intentionally to carry concealed about his person any bowie knife, dirk, dagger, slung shot, loaded cane, metallic knuckles, razor, shurikin, stun gun, pistol, gun or other deadly weapon of like kind. kind, except when the person is on the person's own premises. This section does not apply to an ordinary pocket knife carried in a closed position. As used in this section, 'ordinary pocket knife' means a small knife, designed for carrying in a pocket or purse, which has its cutting edge and point entirely enclosed by its handle, and that may not be opened by a throwing, explosive or spring action.~~

(a1) It shall be unlawful for any person willfully and intentionally to carry concealed about his person any pistol or gun except in the following circumstances:

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

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

- (1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;
- (2) Civil officers of the United States while in the discharge of their official duties;
- (3) Officers and soldiers of the militia and the national guard when called into actual service;
- (4) 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;
- (5) ~~Full time sworn~~ Sworn law-enforcement officers, when ~~off duty, in the jurisdiction where they are assigned, off-duty, if:~~
 - a. Written regulations authorizing the carrying of concealed weapons have been filed with the clerk of court in the county where the law-enforcement unit is located by the sheriff or chief of police or other superior officer in charge; and

- b. Such regulations specifically prohibit the carrying of concealed weapons while the officer is consuming or under the influence of alcoholic beverages.
- (b1) It is a defense to a prosecution under this section that:
 - (1) The weapon was not a firearm;
 - (2) The defendant was engaged in, or on the way to or from, an activity in which he legitimately used the weapon;
 - (3) The defendant possessed the weapon for that legitimate use; and
 - (4) The defendant did not use or attempt to use the weapon for an illegal purpose.

The burden of proving this defense is on the defendant.

(c) Any person violating the provisions of ~~this section~~ subsection (a) of this section shall be guilty of a Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this section shall be guilty of a Class 2 misdemeanor for the first offense. A second or subsequent offense is punishable as a Class I felony.

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

Sec. 3. This act becomes effective December 1, 1995, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives