

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 8*

Committee Substitute Favorable 2/18/94

Committee Substitute #2 Favorable 2/24/94

Fourth Edition Engrossed 3/2/94

Senate Select Committee on Corrections/Punishment Committee Substitute Adopted 3/3/94

Short Title: Amend Felony Firearms Act.

(Public)

Sponsors:

Referred to:

February 8, 1994

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE POSSESSION OF FIREARMS AND WEAPONS OF MASS DEATH AND DESTRUCTION BY FELONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-415.1 reads as rewritten:

"§ 14-415.1. Possession of firearms, etc., by felon prohibited.

(a) ~~(Effective until January 1, 1995)~~ Except as provided in subsections (a1) and (a2), it shall be unlawful for any person who has been convicted of any crime set out in subsection (b) of this section felony to purchase, own, possess, or have in his the person's custody, care, or control any handgun or other firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(e), within five years from the date of such conviction, or the unconditional discharge from a correctional institution, or termination of a suspended sentence, probation, or parole upon such conviction, whichever is later. G.S. 14-288.8(c).

Every person violating the provisions of this section shall be punished as is a Class I H felon.

1 Nothing in this subsection would prohibit the right of any person to have possession
2 of a ~~firearm~~ firearm, other than a handgun or other firearm with a barrel length of less
3 than 18 inches or an overall length of less than 26 inches or any weapon of mass death
4 and destruction, within ~~his~~ the person's own home or on ~~his~~ the person's lawful place of
5 business.

6 Any firearm or weapon of mass death and destruction lawfully seized for a violation
7 of this section shall be forfeited to the State and disposed of as provided in G.S. 14-
8 269.1.

9 (a1) After a period of five years from the date of conviction, unconditional
10 discharge from a correctional institution, or termination of parole, probation, or
11 suspension of sentence, whichever is later, a person convicted of a felony punishable as
12 a Class A, B, C, D, E, or F felony may petition the superior court in the jurisdiction in
13 which the person resides for a permit to purchase, own, possess, or control a firearm,
14 other than a handgun or other firearm with a barrel length of less than 18 inches or an
15 overall length of less than 26 inches or a weapon of mass death and destruction. The
16 presiding judge may, for good cause shown, grant the petition and issue a permit.

17 (a2) **(Effective until January 1, 1995)** In order to comply with the federal Gun
18 Control Act of 1968, as amended, 18 U.S.C. § 922, a person convicted of a felony
19 punishable as a Class G, H, I, or J felony may, after a period of one year from the date
20 of conviction, unconditional discharge from a correctional institution, or termination of
21 parole, probation, or suspension of sentence, whichever is later, petition the superior
22 court in the jurisdiction in which the person resides for a permit to purchase, own,
23 possess, or control a firearm, other than a handgun or other firearm with a barrel length
24 of less than 18 inches or an overall length of less than 26 inches or a weapon of mass
25 death and destruction. The presiding judge may, for good cause shown, grant the
26 petition and issue a permit.

27 (b) Prior convictions which cause disenfranchisement under this section shall ~~only~~
28 ~~include:~~ include only:

- 29 (1) ~~Felonious violations of Articles 3, 4, 6, 7A, 8, 10, 13, 14, 15, 17, 30,~~
30 ~~33, 36, 36A, 52A, or 53 of Chapter 14 of the General Statutes, or of~~
31 ~~Article 5 of Chapter 90 of the General Statutes; Felonies; and~~
- 32 (2) ~~Common law robbery and common law maim; and~~
- 33 (3) Violations of criminal laws of other states or of the United States
34 substantially similar to the crimes covered in ~~subdivisions (1) and (2)~~
35 subdivision (1) which are punishable where committed by
36 imprisonment for a term exceeding two years.

37 When a person is charged under this section, records of prior convictions of any offense,
38 whether in the courts of this State, or in the courts of any other state or of the United
39 States, shall be admissible in evidence for the purpose of proving a violation of this
40 section. The term 'conviction' is defined as a final judgment in any case in which felony
41 punishment, or imprisonment for a term exceeding two years, as the case may be, is
42 permissible, without regard to the plea entered or to the sentence imposed. A judgment
43 of a conviction or a plea of guilty to such an offense certified to a superior court of this
44 State from the custodian of records of any state or federal court under the same name as

1 that by which the defendant is charged shall be **prima facie** evidence that the identity of
2 such person is the same as the defendant so charged and shall be **prima facie** evidence
3 of the facts so certified.

4 (c) The indictment charging the defendant under the terms of this section shall be
5 separate from any indictment charging him with other offenses related to or giving rise
6 to a charge under this section. An indictment which charges the person with violation
7 of this section must set forth the date that the prior offense was committed, the type of
8 offense and the penalty therefor, and the date that the defendant was convicted or plead
9 guilty to such offense, the identity of the court in which the conviction or plea of guilty
10 took place and the verdict and judgment rendered therein."

11 Sec. 2. G.S. 14-415.1, as amended by this act, reads as rewritten:

12 **"§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

13 (a) Except as provided in ~~subsections (a1) and (a2),~~ subsection (a1), it is unlawful
14 for any person who has been convicted of ~~any a Class A, B, C, D, E, or F~~ felony to
15 purchase, own, possess, or have in the person's custody, care, or control any handgun or
16 other firearm with a barrel length of less than 18 inches or an overall length of less than
17 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(c).

18 Every person violating the provisions of this section is a Class H felon.

19 Nothing in this subsection would prohibit the right of any person to have possession
20 of a firearm, other than a handgun or other firearm with a barrel length of less than 18
21 inches or an overall length of less than 26 inches or any weapon of mass death and
22 destruction, within the person's own home or on the person's lawful place of business.

23 Any firearm or weapon of mass death and destruction lawfully seized for a violation
24 of this section shall be forfeited to the State and disposed of as provided in G.S. 14-
25 269.1.

26 (a1) After a period of five years from the date of conviction, unconditional
27 discharge from a correctional institution, or termination of parole, probation, or
28 suspension of sentence, whichever is later, a person convicted of a felony punishable as
29 a Class A, B, C, D, E, or F felony may petition the superior court in the jurisdiction in
30 which the person resides for a permit to purchase, own, possess, or control a firearm,
31 other than a handgun or other firearm with a barrel length of less than 18 inches or an
32 overall length of less than 26 inches or a weapon of mass death and destruction. The
33 presiding judge may, for good cause shown, grant the petition and issue a permit.

34 ~~(a2) (Effective until January 1, 1995) In order to comply with the federal Gun~~
35 ~~Control Act of 1968, as amended, (18 U.S.C. § 922), a person convicted of a felony~~
36 ~~punishable as a Class G, H, I, or J, felony may, after a period of one year from the date~~
37 ~~of conviction, unconditional discharge from a correctional institution, or termination of~~
38 ~~parole, probation, or suspension of sentence, whichever is later, petition the superior~~
39 ~~court in the jurisdiction in which the person resides for a permit to purchase, own,~~
40 ~~possess, or control a firearm, other than a handgun or other firearm with a barrel length~~
41 ~~of less than 18 inches or an overall length of less than 26 inches or a weapon of mass~~
42 ~~death and destruction. The presiding judge may, for good cause shown, grant the~~
43 ~~petition and issue a permit.~~

1 (b) Prior convictions which cause disentitlement under this section shall include
2 only:

- 3 (1) ~~Felonies;~~ Felonies punishable as a Class A, B, C, D, E, or F felony; and
4 (2) Repealed.
5 (3) Violations of criminal laws of other states or of the United States
6 substantially similar to the crimes covered in subdivision (1) which are
7 punishable where committed by imprisonment for a term exceeding
8 two years.

9 When a person is charged under this section, records of prior convictions of any offense,
10 whether in the courts of this State, or in the courts of any other state or of the United
11 States, shall be admissible in evidence for the purpose of proving a violation of this
12 section. The term 'conviction' is defined as a final judgment in any case in which felony
13 punishment, or imprisonment for a term exceeding two years, as the case may be, is
14 permissible, without regard to the plea entered or to the sentence imposed. A judgment
15 of a conviction or a plea of guilty to such an offense certified to a superior court of this
16 State from the custodian of records of any state or federal court under the same name as
17 that by which the defendant is charged shall be **prima facie** evidence that the identity of
18 such person is the same as the defendant so charged and shall be **prima facie** evidence
19 of the facts so certified.

20 (c) The indictment charging the defendant under the terms of this section shall be
21 separate from any indictment charging him with other offenses related to or giving rise
22 to a charge under this section. An indictment which charges the person with violation
23 of this section must set forth the date that the prior offense was committed, the type of
24 offense and the penalty therefor, and the date that the defendant was convicted or plead
25 guilty to such offense, the identity of the court in which the conviction or plea of guilty
26 took place and the verdict and judgment rendered therein."

27 Sec. 3. Section 1245 of Chapter 539 of the 1993 Session Laws is repealed.

28 Sec. 4. Section 2 of this act becomes effective January 1, 1995, and applies
29 to offenses committed on or after that date. Section 3 of this act is effective upon
30 ratification. The remainder of this act becomes effective July 1, 1994, and applies to
31 offenses committed on or after that date. Prosecutions for, or sentences based on,
32 offenses occurring before the effective dates of this act are not abated or affected by this
33 act and the statutes that would be applicable to those prosecutions or sentences but for
34 those provisions of this act remain applicable to those prosecutions or sentences.