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Short Title: Concealed Handgun Permit.

(Public)

Sponsors:

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February 1, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT A PERSON WHO MEETS SPECIFIED STATUTORY
3 CRITERIA MAY CARRY A CONCEALED HANDGUN IF THE PERSON HAS
4 OBTAINED A CONCEALED HANDGUN PERMIT, TO AUTHORIZE SHERIFFS
5 TO ISSUE CONCEALED HANDGUN PERMITS, TO ESTABLISH THE
6 CRITERIA THAT MUST BE SATISFIED TO RECEIVE THE PERMIT, TO
7 ESTABLISH THE PROCEDURE FOR THE ISSUANCE OF A CONCEALED
8 HANDGUN PERMIT, TO INCREASE THE PENALTY FOR CARRYING A
9 CONCEALED HANDGUN WITHOUT A PERMIT, AND TO MAKE
10 CONFORMING STATUTORY CHANGES.

11 The General Assembly of North Carolina enacts:

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

14 **"ARTICLE 54B.**
15 **"CONCEALED HANDGUN PERMIT.**
16 **"§ 14-415.10. Definitions.**

1 The following definitions apply to this Article:

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

8 **"§ 14-415.11. Permit to carry concealed handgun; scope of permit.**

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

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

19 (c) A permit does not authorize a person to carry a concealed handgun in the areas
20 prohibited by G.S. 14-269.2, 14-269.3, 14-269.4, and 14-277.2, in any area prohibited by
21 18 U.S.C. § 922 or any other federal law, in a law enforcement or correctional facility, in
22 a building housing only State or federal offices, in an office of the State or federal
23 government that is not located in a building exclusively occupied by the State or federal
24 government, a financial institution, or any other premises where notice that carrying a
25 concealed handgun is prohibited by the posting of a conspicuous notice or statement by
26 the person in legal possession or control of the premises. A permit does not authorize a
27 person to carry a concealed handgun while consuming alcohol or at any time while the
28 person has remaining in his body any alcohol or in his blood a controlled substance
29 previously consumed, but a person does not violate this condition if a controlled
30 substance in his blood was lawfully obtained and taken in therapeutically appropriate
31 amounts.

32 (d) A person who is issued a permit shall notify the sheriff who issued the permit
33 of any change in the person's permanent address within 30 days after the change of
34 address. If a permit is lost or destroyed, the person to whom the permit was issued shall
35 notify the sheriff who issued the permit of the loss or destruction of the permit. A person
36 may obtain a duplicate permit by submitting to the sheriff a notarized statement that the
37 permit was lost or destroyed and paying a fee of fifteen dollars (\$15.00).

38 **"§ 14-415.12. Criteria to qualify for the issuance of a permit.**

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

- 41 (1) The applicant is a citizen of the United States and has been a resident of
42 the State 30 days or longer immediately preceding the filing of the
43 application.

- 1 (2) The applicant is 21 years of age or older.
2 (3) The applicant does not suffer from a physical infirmity that prevents the
3 safe handling of a handgun.
4 (4) The applicant has successfully completed an approved firearms safety
5 and training course which involves the actual firing of handguns and
6 instruction in the laws governing the carrying of a concealed handgun
7 and the use of deadly force. The requirements for the course, the
8 required qualifications of the instructor of the course, and the approval
9 of the course sponsor, shall be determined by the North Carolina
10 Criminal Justice Education and Training Standards Commission.
11 (5) The applicant is not disqualified under subsection (b) of this section.
12 (b) The sheriff shall deny a permit to an applicant who:
13 (1) Is ineligible to own, possess, or receive a firearm under the provisions
14 of State or federal law.
15 (2) Is formally charged with a crime punishable by imprisonment for a term
16 exceeding one year.
17 (3) Has been adjudicated guilty in any court of a crime punishable by
18 imprisonment for a term exceeding one year.
19 (4) Is a fugitive from justice.
20 (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any
21 depressant, stimulant, or narcotic drug, or any other controlled
22 substance as defined in 21 U.S.C. § 802.
23 (6) Is currently or has been previously adjudicated as follows:
24 a. Lacking mental capacity.
25 b. Mentally ill; or
26 c. Gravely disabled; or
27 d. An incapacitated person.
28 (7) Is or has been discharged from the armed forces under conditions other
29 than honorable.
30 (8) Is or has been adjudicated guilty of or received a prayer for judgment
31 continued or suspended sentence for one or more crimes of violence
32 constituting a misdemeanor, including but not limited to, a violation of a
33 misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a
34 violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1,
35 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1,
36 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2),
37 14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2, or 14-
38 415.19(a), unless five years has elapsed since disposition or pardon has
39 occurred prior to the date on which the application is submitted.
40 (9) Has had entry of a prayer for judgment continued for a criminal offense
41 which would disqualify the person from obtaining a concealed handgun
42 permit.

1 (10) Is free on bond or personal recognizance pending trial, appeal, or
2 sentencing for a crime which would disqualify him from obtaining a
3 concealed handgun permit.

4 (11) Has been convicted of an impaired driving offense under G.S. 20-138.1,
5 20-138.2, or 20-138.3 within three years prior to the date on which the
6 application is submitted.

7 **"§ 14-415.13. Application for a permit; fingerprints.**

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

11 (1) An application, completed under oath, on a form provided by the
12 sheriff.

13 (2) A nonrefundable permit fee of fifty dollars (\$50.00), excluding the cost
14 of fingerprinting.

15 (3) A full set of fingerprints of the applicant administered by a law
16 enforcement agency of this State.

17 (4) An original certificate of completion of an approved course, adopted
18 and distributed by the North Carolina Criminal Justice Education and
19 Training Standards Commission, signed by the certified instructor of the
20 course attesting to the successful completion of the course by the
21 applicant which shall verify that the applicant is competent with a
22 handgun and knowledgeable about the laws governing the carrying of a
23 concealed handgun and the use of deadly force.

24 (b) The sheriff shall submit the fingerprints to the State Bureau of Investigation for
25 a records check of State and national databases. The State Bureau of Investigation shall
26 submit the fingerprints to the Federal Bureau of Investigation as necessary. The cost of
27 processing the set of fingerprints shall be charged to an applicant as provided by G.S. 14-
28 415.19. The fingerprints of an applicant who is issued a permit shall be retained for
29 future use in the event the permit is renewed, and shall be retained until any valid permit
30 expires and is not renewed.

31 **"§ 14-415.14. Application form to be provided by sheriff; information to be**
32 **included in application form.**

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

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

41 'CAUTION: Federal law and State law on the possession of handguns and firearms
42 differ. If you are prohibited by federal law from possessing a handgun or a firearm, you

1 may be prosecuted in federal court. A State permit is not a defense to a federal
2 prosecution.'

3 **"§ 14-415.15. Issuance or denial of permit; sheriff to retain and make available to**
4 **law enforcement agencies a list of permittees.**

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

10 (b) Upon presentment to the sheriff of the items required under G.S. 14-
11 415.13(a)(1), (2) and (3), the sheriff may issue a temporary permit for a period not to
12 exceed 90 days to a person who the sheriff reasonably believes is in an emergency
13 situation that may constitute a risk of safety to the person, the person's family or property.
14 The temporary permit may not be renewed and may be revoked by the sheriff without a
15 hearing.

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

23 (d) The sheriff shall maintain a listing of those persons who are issued permits and
24 any pertinent information regarding the issued permit, and that information shall be
25 available upon request, at all times to all State law enforcement agencies. Within five
26 days of the date the permit is issued, the sheriff shall send a copy of the permit to the
27 State Bureau of Investigation.

28 **"§ 14-415.16. Renewal of permit.**

29 The holder of a permit shall apply to renew the permit at least 30 days prior to its
30 expiration date by filing with the sheriff of the county in which the person resides a
31 renewal form provided by the sheriff's office, a notarized affidavit stating that the
32 permittee remains qualified under the criteria provided in this Article, and a renewal fee
33 of fifty dollars (\$50.00). Upon receipt of the completed renewal application and
34 appropriate payment of fees, the sheriff shall determine if the permittee remains qualified
35 to hold a permit in accordance with the provisions of G.S. 14-415.12. The permittee's
36 criminal history shall be updated, and the sheriff may waive the requirement of taking
37 another firearms safety and training course. If the permittee applies for a renewal of the
38 permit within 30 days of the expiration date, unless the renewal is denied by the sheriff,
39 the permit will be renewed, subject to revocation if the sheriff determines the permittee is
40 not eligible to hold a permit. The sheriff shall renew the permit if the person is qualified.

41 **"§ 14-415.17. Permit.**

42 The permit shall be in a certificate form that is approximately the size of a North
43 Carolina drivers license. It shall bear the signature, name, address, date of birth, and

1 social security number of the permittee, and the drivers license identification number
2 used in applying for the permit. Within five days of issuing a permit under the provisions
3 of this section, the sheriff shall transmit a copy of the permit to the State Bureau of
4 Investigation. The State Bureau of Investigation shall make this information available to
5 law enforcement officers and clerks of court on a statewide system.

6 **"§ 14-415.18. Revocation or suspension of permit.**

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

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

12 (2) Misuse of a permit, including lending or giving a permit to another
13 person, duplicating a permit, or using a permit with the intent to
14 unlawfully cause harm to a person or property.

15 (3) The doing of an act or existence of a condition which would have been
16 grounds for the denial of the permit by the sheriff.

17 (4) The violation of any of the terms of this Article.

18 (5) The applicant is adjudicated guilty of or receives a prayer for judgment
19 continued for a crime which would have disqualified the applicant from
20 initially receiving a permit.

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

23 **"§ 14-415.19. Fees.**

24 The fee for the processing of an applicant's fingerprints shall be collected and retained
25 by the law enforcement office that processes the fingerprints. All other fees under this
26 Article shall be collected and used by the sheriff to pay the costs of the criminal record
27 checks and investigations required under this Article.

28 **"§ 14-415.20. No liability of sheriff.**

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

32 **"§ 14-415.21. Violations of this Article punishable as an infraction and a Class 2**
33 **misdemeanor.**

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

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

3 **"§ 14-415.22. Construction of Article.**

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

6 **"§ 14-415.23. Statewide uniformity.**

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

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

16 **"§ 14-269. Carrying concealed weapons.**

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

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

27 (1) The person is on the person's own premises.

28 (2) The deadly weapon is a handgun, and the person has a concealed
29 handgun permit issued in accordance with Article 54B of this Chapter.

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

31 (1) Officers and enlisted personnel of the armed forces of the United States
32 when in discharge of their official duties as such and acting under orders
33 requiring them to carry arms and weapons;

34 (2) Civil officers of the United States while in the discharge of their official
35 duties;

36 (3) Officers and soldiers of the militia and the national guard when called
37 into actual service;

38 (4) Officers of the State, or of any county, city, or town, charged with the
39 execution of the laws of the State, when acting in the discharge of their
40 official duties;

41 (5) Full-time sworn law-enforcement officers, when ~~off duty~~, in the
42 jurisdiction where they are assigned, ~~off-duty~~, if:

- 1 a. Written regulations authorizing the carrying of concealed
2 weapons have been filed with the clerk of court in the county
3 where the law-enforcement unit is located by the sheriff or chief
4 of police or other superior officer in charge; and
5 b. Such regulations specifically prohibit the carrying of concealed
6 weapons while the officer is consuming or under the influence of
7 alcoholic beverages.

8 (b1) It is a defense to a prosecution under this section that:

- 9 (1) The weapon was not a firearm;
10 (2) The defendant was engaged in, or on the way to or from, an activity in
11 which he legitimately used the weapon;
12 (3) The defendant possessed the weapon for that legitimate use; and
13 (4) The defendant did not use or attempt to use the weapon for an illegal
14 purpose.

15 The burden of proving this defense is on the defendant.

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

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

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