

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 582  
Committee Substitute Favorable 5/19/11

Short Title: Amend Felony Firearms Act/Increase Penalties.

(Public)

Sponsors:

Referred to:

April 4, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CERTAIN VIOLATIONS OF  
3 THE FELONY FIREARMS ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 14-415.1 reads as rewritten:

6 "**§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

7 (a) It shall be unlawful for any person who has been convicted of a felony to purchase,  
8 own, possess, or have in his custody, care, or control any ~~firearm or firearm~~, any weapon of  
9 mass death and destruction as defined in ~~G.S. 14-288.8(e)~~. G.S. 14-288.8(c), any ammunition,  
10 or any electric weapon or electric device intended to be used as a weapon. It is also unlawful  
11 for any person who has been convicted of a felony to carry a concealed weapon, including a  
12 tear gas gun or similar device intended to be used as a weapon.

13 For the purposes of this section, a firearm is (i) any weapon, including a starter gun, which  
14 will or is designed to or may readily be converted to expel a projectile by the action of an  
15 explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer. This section  
16 does not apply to an antique firearm, as defined in G.S. 14-409.11.

17 ~~Every person violating the provisions of this section shall be punished as a Class G felon.~~

18 (a1) Unless the conduct is covered under some other provision of law providing greater  
19 punishment:

20 (1) A person who violates this section is guilty of a Class G felony.

21 (2) A person who violates this section and discharges the firearm, electric  
22 weapon or device, or any other weapon described in subsection (a) of this  
23 section is guilty of a Class E felony.

24 (3) A person who violates this section is guilty of a Class D felony if the  
25 violation results in serious injury to a person.

26 (4) A person who violates this section is guilty of a Class C felony if the  
27 violation results in serious bodily injury to a person.

28 (a2) For the purposes of this section, "serious bodily injury" has the same definition as  
29 that term is defined in G.S. 14-32.4(a), and "serious injury" means a lesser degree of physical  
30 harm than serious bodily injury, which includes, but is not limited to, bruises, lacerations,  
31 sprains, broken bones, or any other indications of physical injury of a type which do not  
32 constitute serious bodily injury."

33 (b) Prior convictions which cause disenfranchisement under this section shall only include:

34 (1) Felony convictions in North Carolina that occur before, on, or after  
35 December 1, 1995; and

36 (2) Repealed by Session Laws 1995, c. 487, s. 3, effective December 1, 1995.



- 1           (3)   Violations of criminal laws of other states or of the United States that occur  
2                   before, on, or after December 1, 1995, and that are substantially similar to  
3                   the crimes covered in subdivision (1) which are punishable where committed  
4                   by imprisonment for a term exceeding one year.

5   When a person is charged under this section, records of prior convictions of any offense,  
6   whether in the courts of this State, or in the courts of any other state or of the United States,  
7   shall be admissible in evidence for the purpose of proving a violation of this section. The term  
8   "conviction" is defined as a final judgment in any case in which felony punishment, or  
9   imprisonment for a term exceeding one year, as the case may be, is permissible, without regard  
10  to the plea entered or to the sentence imposed. A judgment of a conviction of the defendant or a  
11  plea of guilty by the defendant to such an offense certified to a superior court of this State from  
12  the custodian of records of any state or federal court shall be prima facie evidence of the facts  
13  so certified.

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

21       (d)    This section does not apply to a person whose firearms rights have been restored  
22  under G.S. 14-415.4, unless the person is convicted of a subsequent felony after the petition to  
23  restore the person's firearms rights is granted.

24       (e)    This section does not apply and there is no disentitlement under this section if the  
25  felony conviction is a violation under the laws of North Carolina, another state, or the United  
26  States that pertains to antitrust violations, unfair trade practices, or restraints of trade."

27       **SECTION 2.** This act becomes effective December 1, 2011, and applies to  
28  offenses committed on or after that date.