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HOUSE BILL 650
Committee Substitute Favorable 6/2/11
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Short Title: Amend Various Gun Laws/Castle Doctrine.

(Public)

Sponsors:

Referred to:

April 6, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE WHEN A PERSON MAY USE DEFENSIVE FORCE AND TO
3 AMEND VARIOUS LAWS REGARDING THE RIGHT TO OWN, POSSESS, OR
4 CARRY A FIREARM IN NORTH CAROLINA.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 14 of Chapter 14 of the General Statutes is amended by
7 adding the following new sections to read:

8 "**§ 14-51.2. Home, workplace, and motor vehicle protection; presumption of fear of death**
9 **or serious bodily harm.**

10 (a) The following definitions apply in this section:

11 (1) Home. – A building or conveyance of any kind, to include its curtilage,
12 whether the building or conveyance is temporary or permanent, mobile or
13 immobile, which has a roof over it, including a tent, and is designed as a
14 temporary or permanent residence.

15 (2) Law enforcement officer. – Any person employed or appointed as a
16 full-time, part-time, or auxiliary law enforcement officer, correctional
17 officer, probation officer, post-release supervision officer, or parole officer.
18 The term "law enforcement officer" shall include a duly authorized bail
19 bondsman, or his or her employee, who is acting under lawful authority.

20 (3) Motor vehicle. – As defined in G.S. 20-4.01(23).

21 (4) Workplace. – A building or conveyance of any kind, whether the building or
22 conveyance is temporary or permanent, mobile or immobile, which has a
23 roof over it, including a tent, which is being used for commercial purposes.

24 (b) The lawful occupant of a home, motor vehicle, or workplace is presumed to have
25 held a reasonable fear of imminent death or serious bodily harm to himself or herself or another
26 when using defensive force that is intended or likely to cause death or serious bodily harm to
27 another if both of the following apply:

28 (1) The person against whom the defensive force was used was in the process of
29 unlawfully and forcefully entering, or had unlawfully and forcibly entered,
30 the home, motor vehicle, or workplace, or if that person had removed or was
31 attempting to remove another against that person's will from the home,
32 motor vehicle, or workplace.

33 (2) The person who uses defensive force knew or had reason to believe that an
34 unlawful and forcible entry or unlawful and forcible act was occurring or
35 had occurred.



1 "(c) The presumption provided in subsection (b) of this section shall be rebuttable and
2 does not apply in any of the following circumstances:

3 (1) The person against whom the defensive force is used has the right to be in or
4 is a lawful resident of the home, motor vehicle, or workplace such as an
5 owner or lessee, and there is not an injunction for protection from domestic
6 violence or a written pretrial supervision order of no contact against that
7 person.

8 (2) The person sought to be removed from the home, motor vehicle, or
9 workplace is a minor child or minor grandchild or is otherwise in the lawful
10 custody or under the lawful guardianship of the person against whom the
11 defensive force is used.

12 (3) The person who uses defensive force is engaged in, attempting to escape
13 from, or using the home, motor vehicle, or workplace to further any criminal
14 offense that involves the use or threat of physical force or violence against
15 any individual.

16 (4) The person against whom the defensive force is used is a law enforcement
17 officer who enters or attempts to enter a home, motor vehicle, or workplace
18 in the lawful performance of his or her official duties, and the officer
19 identified himself or herself in accordance with any applicable law or the
20 person using force knew or reasonably should have known that the person
21 entering or attempting to enter was a law enforcement officer in the lawful
22 performance of his or her official duties.

23 (5) The person against whom the defensive force is used (i) has discontinued all
24 efforts to unlawfully and forcefully enter the home, motor vehicle, or
25 workplace and (ii) has exited the home, motor vehicle, or workplace.

26 (d) A person who unlawfully and by force enters or attempts to enter a person's home,
27 motor vehicle, or workplace is presumed to be doing so with the intent to commit an unlawful
28 act involving force or violence.

29 (e) A person who uses force as permitted by this section is justified in using such force
30 and is immune from civil or criminal liability for the use of such force, unless the person
31 against whom force was used is a law enforcement officer who was lawfully acting in the
32 performance of his or her official duties and the officer identified himself or herself in
33 accordance with any applicable law or the person using force knew or reasonably should have
34 known that the person was a law enforcement officer in the lawful performance of his or her
35 official duties.

36 (f) A lawful occupant within his or her home, motor vehicle, or workplace does not
37 have a duty to retreat from an intruder in the circumstances described in this section.

38 (g) This section is not intended to repeal or limit any other defense that may exist under
39 the common law.

40 **"§ 14-51.3. Use of force in defense of person; relief from criminal or civil liability.**

41 (a) A person is justified in using force, except deadly force, against another when and to
42 the extent that the person reasonably believes that the conduct is necessary to defend himself or
43 herself or another against the other's imminent use of unlawful force. However, a person is
44 justified in the use of deadly force and does not have a duty to retreat in any place he or she has
45 the lawful right to be if either of the following applies:

46 (1) He or she reasonably believes that such force is necessary to prevent
47 imminent death or serious bodily harm to himself or herself or another.

48 (2) Under the circumstances permitted pursuant to G.S. 14-51.2.

49 (b) A person who uses force as permitted by this section is justified in using such force
50 and is immune from civil or criminal liability for the use of such force, unless the person
51 against whom force was used is a law enforcement officer who was lawfully acting in the

1 performance of his or her official duties and the officer identified himself or herself in
 2 accordance with any applicable law or the person using force knew or reasonably should have
 3 known that the person was a law enforcement officer in the lawful performance of his or her
 4 official duties.

5 **"§ 14-51.4. Justification for defensive force not available.**

6 The justification described in G.S. 14-51.2 and G.S. 14-51.3 is not available to a person
 7 who used defensive force and who:

- 8 (1) Was attempting to commit, committing, or escaping after the commission of
 9 a felony.
- 10 (2) Initially provokes the use of force against himself or herself. However, the
 11 person who initially provokes the use of force against himself or herself will
 12 be justified in using defensive force if:
- 13 a. The force used by the person who was provoked is so serious that the
 14 person using defensive force reasonably believes that he or she was
 15 in imminent danger of death or serious bodily harm, the person using
 16 defensive force had no reasonable means to retreat, and the use of
 17 force which is likely to cause death or serious bodily harm to the
 18 person who was provoked was the only way to escape the danger.
- 19 b. The person who used defensive force withdraws, in good faith, from
 20 physical contact with the person who was provoked, and indicates
 21 clearly that he or she desires to withdraw and terminate the use of
 22 force, but the person who was provoked continues or resumes the use
 23 of force."

24 **SECTION 2.** G.S. 14-51.1 is repealed.

25 **SECTION 3.** G.S. 14-269(b) reads as rewritten:

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

- 27 (1) Officers and enlisted personnel of the armed forces of the United States
 28 when in discharge of their official duties as such and acting under orders
 29 requiring them to carry arms and weapons;
- 30 (2) Civil and law enforcement officers of the United States;
- 31 (3) Officers and soldiers of the militia and the National Guard when called into
 32 actual service;
- 33 (4) Officers of the State, or of any county, city, town, or company police agency
 34 charged with the execution of the laws of the State, when acting in the
 35 discharge of their official duties;
- 36 (4a) Any person who meets all of the following conditions:
- 37 a. Is a qualified retired law enforcement officer as defined in G.S.
 38 14-415.10.
- 39 b. Is the holder of a concealed handgun permit in accordance with
 40 Article 54B of Chapter 14 of the North Carolina General Statutes.
- 41 c. Is certified by the North Carolina Criminal Justice Education and
 42 Training Standards Commission pursuant to G.S. 14-415.26.
- 43 (5) Sworn law-enforcement officers, when off-duty, provided that an officer
 44 does not carry a concealed weapon while consuming alcohol or an unlawful
 45 controlled substance or while alcohol or an unlawful controlled substance
 46 remains in the officer's body."

47 **SECTION 4.** G.S. 14-269.2 reads as rewritten:

48 **"§ 14-269.2. Weapons on campus or other educational property.**

49 (a) The following definitions apply to this section:

- 50 (1) Educational property. – Any school building or bus, school campus,
 51 grounds, recreational area, athletic field, or other property owned, ~~used,~~ or

- 1 operated by any board of education or school board of trustees, or directors
2 for the administration of any school.
- 3 (1a) Employee. – A person employed by a local board of education or school
4 whether the person is an adult or a minor.
- 5 (1b) School. – A public or private school, community college, college, or
6 university.
- 7 (2) Student. – A person enrolled in a school or a person who has been suspended
8 or expelled within the last five years from a school, whether the person is an
9 adult or a minor.
- 10 (3) Switchblade knife. – A knife containing a blade that opens automatically by
11 the release of a spring or a similar contrivance.
- 12 (4) Weapon. – Any device enumerated in subsection (b), (b1), or (d) of this
13 section.
- 14 (b) It shall be a Class I felony for any person knowingly to possess or carry, whether
15 openly or concealed, any gun, rifle, pistol, or other firearm of any kind on educational property
16 or to a curricular or extracurricular activity sponsored by a school. Unless the conduct is
17 covered under some other provision of law providing greater punishment, any person who
18 willfully discharges a firearm of any kind on educational property is guilty of a Class F felony.
19 However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.
- 20 (b1) It shall be a Class G felony for any person to possess or carry, whether openly or
21 concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in
22 G.S. 14-284.1, on educational property or to a curricular or extracurricular activity sponsored
23 by a school. This subsection shall not apply to fireworks.
- 24 (c) It shall be a Class I felony for any person to cause, encourage, or aid a minor who is
25 less than 18 years old to possess or carry, whether openly or concealed, any gun, rifle, pistol, or
26 other firearm of any kind on educational property. However, this subsection does not apply to a
27 BB gun, stun gun, air rifle, or air pistol.
- 28 (c1) It shall be a Class G felony for any person to cause, encourage, or aid a minor who
29 is less than 18 years old to possess or carry, whether openly or concealed, any dynamite
30 cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1 on
31 educational property. This subsection shall not apply to fireworks.
- 32 (d) It shall be a Class 1 misdemeanor for any person to possess or carry, whether openly
33 or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot,
34 leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except
35 solely for personal shaving), firework, or any sharp-pointed or edged instrument except
36 instructional supplies, unaltered nail files and clips and tools used solely for preparation of
37 food, instruction, and maintenance, on educational property.
- 38 (e) It shall be a Class 1 misdemeanor for any person to cause, encourage, or aid a minor
39 who is less than 18 years old to possess or carry, whether openly or concealed, any BB gun,
40 stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade
41 knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal
42 shaving), firework, or any sharp-pointed or edged instrument except instructional supplies,
43 unaltered nail files and clips and tools used solely for preparation of food, instruction, and
44 maintenance, on educational property.
- 45 (f) Notwithstanding subsection (b) of this ~~section~~ section and except as provided in
46 subsection (f1) of this section, it shall be a Class 1 misdemeanor rather than a Class I felony for
47 any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other
48 firearm of any kind, on educational property or to a curricular or extracurricular activity
49 sponsored by a school if:

- 1 (1) The person is not a student attending school on the educational property or
2 an employee employed by the school working on the educational property;
3 and
4 (1a) The person is not a student attending a curricular or extracurricular activity
5 sponsored by the school at which the student is enrolled or an employee
6 attending a curricular or extracurricular activity sponsored by the school at
7 which the employee is employed; and
8 (2) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999, and
9 applicable to offenses committed on or after that date.
10 (3) The firearm is not loaded, is in a motor vehicle, and is in a locked container
11 or a locked firearm rack.
12 (4) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999, and
13 applicable to offenses committed on or after that date.
14 (f1) It shall not be a violation of either subsection (b) or (f) of this section for any person
15 to possess or carry a firearm on educational property or to a curricular or extracurricular
16 activity sponsored by a school if the person has a permit issued in accordance with Article 54B
17 of this Chapter or that is valid under G.S. 14-415.24 and the firearm is in a closed compartment
18 or container within the person's locked vehicle or in a locked container securely affixed to the
19 person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the
20 firearm remains in the closed compartment at all times and the vehicle is locked immediately
21 following the entrance or exit.
22 (g) This section shall not apply to any of the following:
23 (1) A weapon used solely for educational or school-sanctioned ceremonial
24 purposes, or used in a school-approved program conducted under the
25 supervision of an adult whose supervision has been approved by the school
26 authority.
27 (1a) A person exempted by the provisions of G.S. 14-269(b).
28 (2) Firefighters, emergency service personnel, and North Carolina Forest
29 Service personnel, and any private police employed by a school, when acting
30 in the discharge of their official duties.
31 (3) Home schools as defined in G.S. 115C-563(a).
32 (4) Weapons used for hunting purposes on the Howell Woods Nature Center
33 property in Johnston County owned by Johnston Community College when
34 used with the written permission of Johnston Community College or for
35 hunting purposes on other educational property when used with the written
36 permission of the governing body of the school that controls the educational
37 property.
38 (5) A person registered under Chapter 74C of the General Statutes as an armed
39 armored car service guard or an armed courier service guard when acting in
40 the discharge of the guard's duties and with the permission of the college or
41 university.
42 (6) A person registered under Chapter 74C of the General Statutes as an armed
43 security guard while on the premises of a hospital or health care facility
44 located on educational property when acting in the discharge of the guard's
45 duties with the permission of the college or university.
46 (h) No person shall be guilty of a criminal violation of this section with regard to the
47 possession or carrying of a weapon so long as both of the following apply:
48 (1) The person comes into possession of a weapon by taking or receiving the
49 weapon from another person or by finding the weapon.
50 (2) The person delivers the weapon, directly or indirectly, as soon as practical to
51 law enforcement authorities."

1 **SECTION 5.** G.S. 14-269.4 reads as rewritten:

2 "**§ 14-269.4. Weapons on certain State property and in courthouses.**

3 It shall be unlawful for any person to possess, or carry, whether openly or concealed, any
4 deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in
5 the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or
6 on the grounds of any of these buildings, and in any building housing any court of the General
7 Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the
8 court, then this prohibition shall apply only to that portion of the building used for court
9 purposes while the building is being used for court purposes.

10 This section shall not apply ~~to~~ to any of the following:

11 (1) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,

12 (1a) A person exempted by the provisions of ~~G.S. 14-269(b)~~, G.S. 14-269(b).

13 (2) through (4) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,

14 (4a) Any person in a building housing a court of the General Court of Justice in
15 possession of a weapon for evidentiary purposes, to deliver it to a
16 law-enforcement agency, or for purposes of ~~registration~~, registration.

17 (4b) Any district court judge or superior court judge who carries or possesses a
18 concealed handgun in a building housing a court of the General Court of
19 Justice if the judge is in the building to discharge his or her official duties
20 and the judge has a concealed handgun permit issued in accordance with
21 Article 54B of this Chapter or considered valid under
22 ~~G.S. 14-415.24~~, G.S. 14-415.24.

23 (4c) Firearms in a courthouse, carried by detention officers employed by and
24 authorized by the sheriff to carry ~~firearms~~, firearms.

25 (4d) Any magistrate who carries or possesses a concealed handgun in any portion
26 of a building housing a court of the General Court of Justice other than a
27 courtroom itself unless the magistrate is presiding in that courtroom, if the
28 magistrate (i) is in the building to discharge the magistrate's official duties,
29 (ii) has a concealed handgun permit issued in accordance with Article 54B of
30 this Chapter or considered valid under G.S. 14-415.24, (iii) has successfully
31 completed a one-time weapons retention training substantially similar to that
32 provided to certified law enforcement officers in North Carolina, and (iv)
33 secures the weapon in a locked compartment when the weapon is not on the
34 magistrate's ~~person~~, person.

35 (5) State-owned rest areas, rest stops along the highways, and State-owned
36 hunting and fishing reservations.

37 (6) A person with a permit issued in accordance with Article 54B of this
38 Chapter or considered valid under G.S. 14-415.24 who has a firearm in a
39 closed compartment or container within the person's locked vehicle or in a
40 locked container securely affixed to the person's vehicle. A person may
41 unlock the vehicle to enter or exit the vehicle provided the firearm remains
42 in the closed compartment at all times and the vehicle is locked immediately
43 following the entrance or exit.

44 Any person violating the provisions of this section shall be guilty of a Class 1
45 misdemeanor."

46 **SECTION 6.** G.S. 14-269.7(a) reads as rewritten:

47 "(a) Any minor who willfully and intentionally possesses or carries a handgun is guilty
48 of a ~~Class 2~~ Class 1 misdemeanor."

49 **SECTION 7.** G.S. 14-269.8(a) reads as rewritten:

50 "(a) In accordance with G.S. 50B-3.1, it is unlawful for any person to ~~own~~, possess,
51 purchase, or receive or attempt to ~~own~~, possess, purchase, or receive a firearm, as defined in

1 G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed
2 firearms if ordered by the court for so long as that protective order or any successive protective
3 order entered against that person pursuant to Chapter 50B of the General Statutes is in effect."

4 **SECTION 8.** G.S. 14-288.8(b) reads as rewritten:

5 "(b) This section does not apply ~~to~~to any of the following:

- 6 (1) Persons exempted from the provisions of G.S. 14-269 with respect to any
7 activities lawfully engaged in while carrying out their duties.
- 8 (2) Importers, manufacturers, dealers, and collectors of firearms, ammunition, or
9 destructive devices validly licensed under the laws of the United States or
10 the State of North Carolina, while lawfully engaged in activities authorized
11 under their licenses.
- 12 (3) Persons under contract with the United States, the State of North Carolina, or
13 any agency of either government, with respect to any activities lawfully
14 engaged in under their contracts.
- 15 (4) Inventors, designers, ordnance consultants and researchers, chemists,
16 physicists, and other persons lawfully engaged in pursuits designed to
17 enlarge knowledge or to facilitate the creation, development, or manufacture
18 of weapons of mass death and destruction intended for use in a manner
19 consistent with the laws of the United States and the State of North Carolina.
- 20 (5) Persons who lawfully possess or own a weapon as defined in subsection (c)
21 of this section in compliance with 26 U.S.C. Chapter 53, §§ 5801-5871.
22 Nothing in this subdivision shall limit the discretion of the sheriff in
23 executing the paperwork required by the United States Bureau of Alcohol,
24 Tobacco and Firearms for such person to obtain the weapon."

25 **SECTION 9.** G.S. 14-409(b) reads as rewritten:

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

30 Banks, merchants, and recognized business establishments for use in their respective places
31 of business, who shall first apply to and receive from the sheriff of the county in which said
32 business is located, a permit to possess the said weapons for the purpose of defending the said
33 business; officers and soldiers of the United States Army, when in discharge of their official
34 duties, officers and soldiers of the militia when called into actual service, officers of the State,
35 or of any county, city or town, charged with the execution of the laws of the State, when acting
36 in the discharge of their official duties; the manufacture, use or possession of such weapons for
37 scientific or experimental purposes when such manufacture, use or possession is lawful under
38 federal laws and the weapon is registered with a federal agency, and when a permit to
39 manufacture, use or possess the weapon is issued by the sheriff of the county in which the
40 weapon is ~~located~~-located; a person who lawfully possesses or owns a weapon as defined by
41 subsection (a) of this section in compliance with 26 U.S.C. Chapter 53, §§ 5801-5871. Nothing
42 in this subdivision shall limit the discretion of the sheriff in executing the paperwork required
43 by the United States Bureau of Alcohol, Tobacco and Firearms for such person to obtain the
44 weapon. Provided, further, that any bona fide resident of this State who now owns a machine
45 gun used in former wars, as a relic or souvenir, may retain and keep same as his or her property
46 without violating the provisions of this section upon his reporting said ownership to the sheriff
47 of the county in which said person lives."

48 **SECTION 10.** G.S. 14-404(d) reads as rewritten:

49 "(d) Nothing in this Article shall apply to officers authorized by law to carry firearms if
50 the officers identify themselves to the vendor or donor as being officers authorized by law to

1 carry firearms and state that the purpose for the purchase of the firearms is directly related to
2 the law officers' official duties, provide any of the following:

- 3 (1) A letter signed by the officer's supervisor or superior officer stating that the
4 officer is authorized by law to carry a firearm.
- 5 (2) A current photographic identification card issued by the officer's employer.
- 6 (3) A current photographic identification card issued by a State agency that
7 identifies the individual as a law enforcement officer certified by the State of
8 North Carolina.
- 9 (4) A current identification card issued by the officer's employer and another
10 form of current photographic identification."

11 **SECTION 11.** Article 53A of Chapter 14 of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 14-408.1. Solicit unlawful purchase of firearm; unlawful to provide materially false**
14 **information regarding legality of firearm or ammunition transfer.**

15 (a) The following definitions apply in this section:

- 16 (1) Ammunition. – Any cartridge, shell, or projectile designed for use in a
17 firearm.
- 18 (2) Firearm. – A handgun, shotgun, or rifle which expels a projectile by action
19 of an explosion.
- 20 (3) Handgun. – A pistol, revolver, or other gun that has a short stock and is
21 designed to be held and fired by the use of a single hand.
- 22 (4) Licensed dealer. – A person who is licensed pursuant to 18 U.S.C. § 923 to
23 engage in the business of dealing in firearms.
- 24 (5) Materially false information. – Information that portrays an illegal
25 transaction as legal or a legal transaction as illegal.
- 26 (6) Private seller. – A person who sells or offers for sale any firearm, as defined
27 in G.S. 14-409.39, or ammunition.

28 (b) Any person who knowingly solicits, persuades, encourages, or entices a licensed
29 dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under
30 circumstances that the person knows would violate the laws of this State or the United States is
31 guilty of a Class F felony.

32 (c) Any person who provides to a licensed dealer or private seller of firearms or
33 ammunition information that the person knows to be materially false information with the
34 intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition
35 is guilty of a Class F felony.

36 (d) Any person who willfully procures another to engage in conduct prohibited by this
37 section shall be held accountable as a principal.

38 (e) This section does not apply to a law enforcement officer acting in his or her official
39 capacity or to a person acting at the direction of the law enforcement officer."

40 **SECTION 12.** G.S. 14-409.10 reads as written:

41 **"§ 14-409.10. Purchase of rifles and shotguns out of State.**

42 It shall be lawful for citizens of this State to purchase rifles and shotguns and ammunition
43 therefor in states contiguous to this State. Notwithstanding any other provision of law of this
44 State, a citizen of this State may purchase a firearm in another state if the citizen undergoes a
45 background check that satisfies the law of the state of purchase and that includes an inquiry of
46 the National Instant Background Check System."

47 **SECTION 13.** G.S. 14-415.1 reads as rewritten:

48 **"§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

49 (a) It shall be unlawful for any person who has been convicted of a felony to purchase,
50 own, possess, or have in his custody, care, or control any firearm or any weapon of mass death
51 and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i)

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

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

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

- 7 (1) Felony convictions in North Carolina that occur before, on, or after
 8 December 1, 1995; and
- 9 (2) Repealed by Session Laws 1995, c. 487, s. 3, effective December 1, 1995.
- 10 (3) Violations of criminal laws of other states or of the United States that occur
 11 before, on, or after December 1, 1995, and that are substantially similar to
 12 the crimes covered in subdivision (1) which are punishable where committed
 13 by imprisonment for a term exceeding one year.

14 When a person is charged under this section, records of prior convictions of any offense,
 15 whether in the courts of this State, or in the courts of any other state or of the United States,
 16 shall be admissible in evidence for the purpose of proving a violation of this section. The term
 17 "conviction" is defined as a final judgment in any case in which felony punishment, or
 18 imprisonment for a term exceeding one year, as the case may be, is ~~permissible, authorized,~~
 19 without regard to the plea entered or to the sentence imposed. A judgment of a conviction of
 20 the defendant or a plea of guilty by the defendant to such an offense certified to a superior court
 21 of this State from the custodian of records of any state or federal court shall be prima facie
 22 evidence of the facts so certified.

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

30 (d) This section does not apply to a person ~~whose firearms rights have been restored~~
 31 ~~under G.S. 14-415.4, unless the person is convicted of a subsequent felony after the petition to~~
 32 ~~restore the person's firearms rights is granted, who, pursuant to the law of the jurisdiction in~~
 33 ~~which the conviction occurred, has been pardoned or has had his or her firearms rights restored~~
 34 ~~if such restoration of rights could also be granted under North Carolina law.~~

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

38 **SECTION 14.** G.S. 14-415.11(c) reads as rewritten.

39 "(c) A permit does not authorize a person to carry a concealed handgun in any of the
 40 following:

- 41 (1) ~~areas~~ Areas prohibited by ~~G.S. 269.2, 14-269.3, 14-269.4, and~~
 42 ~~14-277.2, G.S. 14-269.3 and G.S. 14-277.2.~~
- 43 (2) Areas prohibited by G.S. 14-269.2, except as allowed under G.S. 14-
 44 269.2(f1).
- 45 (3) Areas prohibited by G.S. 14-269.4, except as allowed under G.S. 14-
 46 269.4(6).
- 47 (4) ~~in~~ In an area prohibited by rule adopted under ~~G.S. 120-32.1, G.S. 120-32.1.~~
- 48 (5) ~~in~~ In any area prohibited by 18 U.S.C. § 922 or any other federal ~~law, law.~~
- 49 (6) ~~in~~ In a law enforcement or correctional ~~facility, facility.~~
- 50 (7) ~~in~~ In a building housing only State or federal ~~offices, offices, except as~~
 51 allowed under G.S. 14-409.41.

1 (8) ~~in~~In an office of the State or federal government that is not located in a
2 building exclusively occupied by the State or federal
3 ~~government,~~government, except as allowed under G.S. 14-409.41.

4 (9) ~~a financial institution, or on any other premises, except state owned rest~~
5 ~~areas or state owned rest stops along the highways,~~Except as provided in
6 G.S. 14-409.41, on any private premises where notice that carrying a
7 concealed handgun is prohibited by the posting of a conspicuous notice or
8 statement by the person in legal possession or control of the premises.

9 It shall be unlawful for a person, with or without a permit, to carry a concealed handgun
10 while consuming alcohol or at any time while the person has remaining in ~~his~~the person's body
11 any alcohol or in ~~his~~the person's blood a controlled substance previously consumed, but a
12 person does not violate this condition if a controlled substance in ~~his~~the person's blood was
13 lawfully obtained and taken in therapeutically appropriate ~~amounts,~~amounts or if the person is
14 on the person's own property.

15 It shall be lawful for a person with a permit to carry a concealed handgun at any
16 State-owned rest area or State-owned rest stop along the highways."

17 **SECTION 15.** G.S. 14-415.13(a)(5) reads as rewritten:

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

21 ...
22 (5) A release, in a form to be prescribed by the Administrative Office of the
23 Courts, that authorizes and requires disclosure to the sheriff of any records
24 concerning the mental health or capacity of the ~~applicant,~~applicant to be
25 used for the sole purpose of determining whether the applicant is
26 disqualified for a permit under the provisions of G.S. 14-415.12. This
27 provision does not prohibit submitting information related to involuntary
28 commitment to the National Instant Criminal Background Check System
29 (NICS)."

30 **SECTION 16.** G.S. 14-415.14(b) reads as rewritten:

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

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

35 **SECTION 17.** G.S. 14-415.15 reads as rewritten:

36 "**§ 14-415.15. Issuance or denial of permit.**

37 (a) Except as permitted under subsection (b) of this section, within ~~90~~45 days after
38 receipt of the items listed in G.S. 14-415.13 from an applicant, and receipt of the required
39 records concerning the mental health or capacity of the applicant, the sheriff shall either issue
40 or deny the permit. The sheriff may conduct any investigation necessary to determine the
41 qualification or competency of the person applying for the permit, including record checks.

42 (b) Upon presentment to the sheriff of the items required under G.S. 14-415.13 (a)(1),
43 (2), and (3), the sheriff may issue a temporary permit for a period not to exceed ~~90~~45 days to a
44 person who the sheriff reasonably believes is in an emergency situation that may constitute a
45 risk of safety to the person, the person's family or property. The applicant may submit proof of
46 a protective order issued under G.S. 50B-3 for the protection of the applicant as evidence of an
47 emergency situation. The temporary permit may not be renewed and may be revoked by the
48 sheriff without a hearing.

49 (c) A person's application for a permit shall be denied only if the applicant fails to
50 qualify under the criteria listed in this Article. If the sheriff denies the application for a permit,
51 the sheriff shall, within ~~90~~45 days, notify the applicant in writing, stating the grounds for

1 denial. An applicant may appeal the denial, revocation, or nonrenewal of a permit by
2 petitioning a district court judge of the district in which the application was filed. The
3 determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness
4 of the sheriff's refusal. The determination by the court shall be final."

5 **SECTION 18.** G.S. 14-415.16 reads as rewritten:

6 "**§ 14-415.16. Renewal of permit.**

7 (a) At least 45 days prior to the expiration date of a permit, the sheriff of the county
8 where the permit was issued shall send a written notice to the permittee explaining that the
9 permit is about to expire and including information about the requirements for renewal of the
10 permit. The notice shall be sent by first class mail to the last known address of the permittee.
11 Failure to receive a renewal notice shall not relieve a permittee of requirements imposed in this
12 section for renewal of the permit.

13 (b) The holder of a permit shall apply to renew the permit within the 90-day period
14 prior to its expiration date by filing with the sheriff of the county in which the person resides a
15 renewal form provided by the sheriff's office, ~~a notarized~~ an affidavit stating that the permittee
16 remains qualified under the criteria provided in this Article, a newly administered full set of the
17 permittee's fingerprints, and a renewal fee.

18 (c) Upon receipt of the completed renewal ~~application, including the permittee's~~
19 ~~fingerprints, application~~ and the appropriate payment of fees, the sheriff shall determine if the
20 permittee remains qualified to hold a permit in accordance with the provisions of
21 G.S. 14-415.12. The permittee's criminal history shall be updated, including with another
22 inquiry of the National Instant Criminal Background Check System (NICS), and the sheriff
23 may waive the requirement of taking another firearms safety and training course. If the
24 permittee applies for a renewal of the permit within the 90-day period prior to its expiration
25 date and if the permittee remains qualified to have a permit under G.S. 14-415.12, the sheriff
26 shall renew the permit. The permit of a permittee who complies with this section shall remain
27 valid beyond the expiration date of the permit until the permittee either receives a renewal
28 permit or is denied a renewal permit by the sheriff.

29 (d) No fingerprints shall be required for a renewal permit if the applicant's fingerprints
30 were submitted to the State Bureau of Investigation after June 30, 2001, on the Automated
31 Fingerprint Information System (AFIS) as prescribed by the State Bureau of Investigation.

32 (e) If the permittee does not apply to renew the permit prior to its expiration date, but
33 does apply to renew the permit within 60 days after the permit expires, the sheriff may waive
34 the requirement of taking another firearms safety and training course. This subsection does not
35 extend the expiration date of the permit."

36 **SECTION 19.** G.S. 14-415.17 reads as rewritten:

37 "**§ 14-415.17. Permit; sheriff to retain and make available to law enforcement agencies a**
38 **list of permittees.**

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

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

49 **SECTION 20.** G.S. 14-415.18(a) reads as rewritten:

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

- 4 (1) Fraud or intentional ~~or~~ and material misrepresentation in the obtaining of a
5 permit.
- 6 (2) Misuse of a permit, including lending or giving a permit or a duplicate
7 permit to another person, duplicating ~~materially altering~~ a permit, or using a
8 permit with the intent to unlawfully cause harm to a person or property. It
9 shall not be considered misuse of a permit to provide a duplicate of the
10 permit to a vender for record-keeping purposes.
- 11 (3) The doing of an act or existence of a condition which would have been
12 grounds for the denial of the permit by the sheriff.
- 13 (4) The violation of any of the terms of this Article.
- 14 (5) The applicant is adjudicated guilty of or receives a prayer for judgment
15 continued for a crime which would have disqualified the applicant from
16 initially receiving a permit.

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

20 **SECTION 21.** G.S. 14-415.21 reads as rewritten:

21 "**§ 14-415.21. Violations of this Article punishable as an ~~infraction and a Class 2~~**
22 **~~misdemeanor, infraction.~~**

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

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

33 **SECTION 22.** G.S. 14-415.24 reads as rewritten:

34 "**§ 14-415.24. Reciprocity; out-of-state handgun permits.**

35 (a) A valid concealed handgun permit or license issued by another state is valid in
36 ~~North Carolina if that state grants the same right to residents of North Carolina who have valid~~
37 ~~concealed handgun permits issued pursuant to this Article in their possession while carrying~~
38 ~~concealed weapons in that state.~~ North Carolina.

39 (b) ~~The Attorney General shall maintain a registry of states that meet the requirements~~
40 ~~of this section on the North Carolina Criminal Information Network and make the registry~~
41 ~~available to law enforcement officers for investigative purposes.~~

42 (c) Every 12 months after the effective date of this subsection, the Department of
43 Justice shall make written inquiry of the concealed handgun permitting authorities in each other
44 state as to: (i) whether a North Carolina resident may carry a concealed handgun in their state
45 based upon having a valid North Carolina concealed handgun permit and (ii) whether a North
46 Carolina resident may apply for a concealed handgun permit in that state based upon having a
47 valid North Carolina concealed handgun permit. The Department of Justice shall attempt to
48 secure from each state permission for North Carolina residents who hold a valid North Carolina
49 concealed handgun permit to carry a concealed handgun in that state, either on the basis of the
50 North Carolina permit or on the basis that the North Carolina permit is sufficient to permit the
51 issuance of a similar license or permit by the other state."

1 **SECTION 23.** G.S. 50B-3.1(d) reads as rewritten:

2 "(d) Surrender. – Upon service of the order, the defendant shall immediately surrender to
3 the sheriff possession of all firearms, machine guns, ammunition, permits to purchase firearms,
4 and permits to carry concealed firearms that are in the care, custody, possession, ownership, or
5 control of the defendant. In the event that weapons cannot be surrendered at the time the order
6 is served, the defendant shall surrender the firearms, ammunitions, and permits to the sheriff
7 within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the
8 firearms or contract with a licensed firearms dealer to provide storage.

9 (1) If the court orders the defendant to surrender firearms, ammunition, and
10 permits, the court shall inform the plaintiff and the defendant of the terms of
11 the protective order and include these terms on the face of the order,
12 including that the defendant is prohibited from ~~owning,~~ possessing,
13 purchasing, or receiving or attempting to ~~own,~~ possess, purchase, or receive
14 a firearm for so long as the protective order or any successive protective
15 order is in effect. The terms of the order shall include instructions as to how
16 the defendant may request retrieval of any firearms, ammunition, and
17 permits surrendered to the sheriff when the protective order is no longer in
18 effect. The terms shall also include notice of the penalty for violation of
19 G.S. 14-269.8.

20 (2) The sheriff may charge the defendant a reasonable fee for the storage of any
21 firearms and ammunition taken pursuant to a protective order. The fees are
22 payable to the sheriff. The sheriff shall transmit the proceeds of these fees to
23 the county finance officer. The fees shall be used by the sheriff to pay the
24 costs of administering this section and for other law enforcement purposes.
25 The county shall expend the restricted funds for these purposes only. The
26 sheriff shall not release firearms, ammunition, or permits without a court
27 order granting the release. The defendant must remit all fees owed prior to
28 the authorized return of any firearms, ammunition, or permits. The sheriff
29 shall not incur any civil or criminal liability for alleged damage or
30 deterioration due to storage or transportation of any firearms or ammunition
31 held pursuant to this section."

32 **SECTION 24.** G.S. 50B-3.1(j) reads as rewritten:

33 "(j) Violations. – In accordance with G.S. 14-269.8, it is unlawful for any person to
34 ~~own,~~ possess, purchase, or receive or attempt to ~~own,~~ possess, purchase, or receive a firearm, as
35 defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry
36 concealed firearms if ordered by the court for so long as that protective order or any successive
37 protective order entered against that person pursuant to this Chapter is in effect. Any defendant
38 violating the provisions of this section shall be guilty of a Class H felony."

39 **SECTION 25.** G.S. 120-32.1 is amended by adding a new subsection to read:

40 "(c1) No rule adopted under this section shall prohibit the transportation or storage of a
41 firearm in a closed compartment or container within a person's locked vehicle or in a locked
42 container securely affixed to a person's vehicle."

43 **SECTION 26.** This act becomes effective December 1, 2011, and applies to
44 offenses committed on or after that date. Prosecutions for offenses committed before the
45 effective date of this act are not abated or affected by this act, and the statutes that would be
46 applicable but for this act remain applicable to those prosecutions.