

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 465
Second Edition Engrossed 5/15/13

Short Title: No Possession of Firearms/Undocumented Aliens. (Public)

Sponsors: Representatives McNeill, Warren, Faircloth, and Ford (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary, if favorable, Appropriations.

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT PERSONS WHO ARE NOT LAWFULLY PRESENT IN THIS
STATE FROM POSSESSING FIREARMS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 64 of the General Statutes is amended by adding
a new section to read:

"§ 64-6. Possession of firearms by persons who are not lawfully present prohibited.

(a) Prohibited Conduct. – It shall be unlawful for a person who is not lawfully present
in the United States to possess a firearm in this State. For purposes of this section, a person not
a citizen or national of the United States is not lawfully present in the United States unless the
person (i) holds valid documentation issued by or under the authority of the United States
government that demonstrates the applicant's legal presence in the United States or (ii) has
otherwise been permitted to remain in the United States by the federal government.

(b) Penalty. – A violation of this section shall be a Class I Felony.

(c) Seizure of Unlawfully Possessed Firearms. – Upon a determination that probable
cause exists to believe that a firearm is in the possession of a person in violation of this section,
all sheriffs and law enforcement officers are authorized to seize the unlawfully possessed
firearm in accordance with applicable State law. Any law enforcement agency in possession of
the firearm shall retain the item pending a disposition order from a district or superior court
judge."

SECTION 2. G.S. 14-269.1 reads as rewritten:

"§ 14-269.1. Confiscation and disposition of deadly weapons.

Upon conviction of any person for violation of G.S. 14-269, G.S. 14-269.7, G.S. 64-6, or
any other offense involving the use of a deadly weapon of a type referred to in G.S. 14-269, the
deadly weapon with reference to which the defendant shall have been convicted shall be
ordered confiscated and disposed of by the presiding judge at the trial in one of the following
ways in the discretion of the presiding judge.

(1) By ordering the weapon returned to its rightful owner, but only when such
owner is a person other than the defendant and has filed a petition for the
recovery of such weapon with the presiding judge at the time of the
defendant's conviction, and upon a finding by the presiding judge that
petitioner is entitled to possession of same and that he was unlawfully
deprived of the same without his consent.

(2), (3) Repealed by Session Laws 1994, Ex. Sess., c. 16, s. 2.



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- 1 (4) By ordering such weapon turned over to the sheriff of the county in which
2 the trial is held or his duly authorized agent to be destroyed. The sheriff shall
3 maintain a record of the destruction thereof.
- 4 (4a) Repealed by Session Laws 2005-287, s. 3, effective August 22, 2005.
- 5 (4b) By ordering the weapon turned over to a law enforcement agency in the
6 county of trial for (i) the official use of the agency or (ii) sale, trade, or
7 exchange by the agency to a federally licensed firearm dealer in accordance
8 with all applicable State and federal firearm laws. The court may order a
9 disposition of the firearm pursuant to this subdivision only upon the written
10 request of the head or chief of the law enforcement agency and only if the
11 firearm has a legible, unique identification number. If the law enforcement
12 agency sells the firearm, then the proceeds of the sale shall be remitted to the
13 appropriate county finance officer as provided by G.S. 115C-452 to be used
14 to maintain free public schools. The receiving law enforcement agency shall
15 maintain a record and inventory of all firearms received pursuant to this
16 subdivision.
- 17 (5) By ordering such weapon turned over to the North Carolina State Crime
18 Laboratory's weapons reference library for official use by that agency. The
19 State Bureau of Investigation shall maintain a record and inventory of all
20 such weapons received.
- 21 (6) By ordering such weapons turned over to the North Carolina Justice
22 Academy for official use by that agency. The North Carolina Justice
23 Academy shall maintain a record and inventory of all such weapons
24 received."

25 **SECTION 3.** This act becomes effective December 1, 2013, and applies to
26 offenses committed on or after that date.