

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

HOUSE BILL 937  
RATIFIED BILL

AN ACT TO AMEND STATE FIREARMS LAWS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 14-269 is amended by adding a new subsection to read:

"(a2) This prohibition does not apply to a person who has a concealed handgun permit issued in accordance with Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25, provided the weapon is a handgun, is in a closed compartment or container within the person's locked vehicle, and the vehicle is in a parking area that is owned or leased by State government. A person may unlock the vehicle to enter or exit the vehicle, provided the handgun remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit."

**SECTION 2.** G.S. 14-269.2 is amended by adding the following new subsections to read:

"(i) The provisions of this section shall not apply to an employee of an institution of higher education as defined in G.S. 116-143.1 or a nonpublic post-secondary educational institution who resides on the campus of the institution at which the person is employed when all of the following criteria are met:

- (1) The employee's residence is a detached, single-family dwelling in which only the employee and the employee's immediate family reside.
- (2) The institution is either:
  - a. An institution of higher education as defined by G.S. 116-143.1.
  - b. A nonpublic post-secondary educational institution that has not specifically prohibited the possession of a handgun pursuant to this subsection.
- (3) The weapon is a handgun.
- (4) The handgun is possessed in one of the following manners as appropriate:
  - a. If the employee has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, the handgun may be on the premises of the employee's residence or in a closed compartment or container within the employee's locked vehicle that is located in a parking area of the educational property of the institution at which the person is employed and resides. Except for direct transfer between the residence and the vehicle, the handgun must remain at all times either on the premises of the employee's residence or in the closed compartment of the employee's locked vehicle. The employee may unlock the vehicle to enter or exit, but must lock the vehicle immediately following the entrance or exit if the handgun is in the vehicle.



b. If the employee is not authorized to carry a concealed handgun pursuant to Article 54B of this Chapter, the handgun may be on the premises of the employee's residence, and may only be in the employee's vehicle when the vehicle is occupied by the employee and the employee is immediately leaving the campus or is driving directly to their residence from off campus. The employee may possess the handgun on the employee's person outside the premises of the employee's residence when making a direct transfer of the handgun from the residence to the employee's vehicle when the employee is immediately leaving the campus or from the employee's vehicle to the residence when the employee is arriving at the residence from off campus.

(j) The provisions of this section shall not apply to an employee of a public or nonpublic school who resides on the campus of the school at which the person is employed when all of the following criteria are met:

(1) The employee's residence is a detached, single-family dwelling in which only the employee and the employee's immediate family reside.

(2) The school is either:

a. A public school which provides residential housing for enrolled students.

b. A nonpublic school which provides residential housing for enrolled students and has not specifically prohibited the possession of a handgun pursuant to this subsection.

(3) The weapon is a handgun.

(4) The handgun is possessed in one of the following manners as appropriate:

a. If the employee has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, the handgun may be on the premises of the employee's residence or in a closed compartment or container within the employee's locked vehicle that is located in a parking area of the educational property of the school at which the person is employed and resides. Except for direct transfer between the residence and the vehicle, the handgun must remain at all times either on the premises of the employee's residence or in the closed compartment of the employee's locked vehicle. The employee may unlock the vehicle to enter or exit, but must lock the vehicle immediately following the entrance or exit if the handgun is in the vehicle.

b. If the employee is not authorized to carry a concealed handgun pursuant to Article 54B of this Chapter, the handgun may be on the premises of the employee's residence, and may only be in the employee's vehicle when the vehicle is occupied by the employee and the employee is immediately leaving the campus or is driving directly to their residence from off campus. The employee may possess the handgun on the employee's person outside the premises of the employee's residence when making a direct transfer of the handgun from the residence to the employee's vehicle when the employee is immediately leaving the campus or from the employee's vehicle to the residence when the employee is arriving at the residence from off campus.

(k) The provisions of this section shall not apply to a person who has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, who has a handgun in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit."

**SECTION 3.** G.S. 14-269.3(b) reads as rewritten:

"(b) This section shall not apply to any of the following:

- (1) A person exempted from the provisions of ~~G.S. 14-269;~~G.S. 14-269.
- (2) The owner or lessee of the premises or business ~~establishment;~~establishment.
- (3) A person participating in the event, if ~~he the person~~ is carrying a gun, rifle, or pistol with the permission of the owner, lessee, or person or organization sponsoring the ~~event;~~ event.
- (4) A person registered or hired as a security guard by the owner, lessee, or person or organization sponsoring the event.
- (5) A person carrying a handgun if the person has a valid concealed handgun permit issued in accordance with Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25. This subdivision shall not be construed to permit a person to carry a handgun on any premises where the person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c)."

**SECTION 4.** G.S. 14-316 reads as rewritten:

**"§ 14-316. Permitting young children to use dangerous firearms.**

(a) It shall be unlawful for any ~~parent, guardian, or person standing in loco parentis;~~ person to knowingly permit ~~his a~~ child under the age of 12 years to have ~~the access to, or possession, custody or use in any manner whatever, of~~ any gun, pistol or other dangerous firearm, whether such weapon be loaded or unloaded, ~~except when such~~ unless the person has the permission of the child's parent or guardian, and the child is under the supervision of the parent, guardian or person standing in loco parentis. It shall be unlawful for any other person to knowingly furnish such child any weapon enumerated herein. an adult. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(b) Air rifles, air pistols, and BB guns shall not be deemed "dangerous firearms" within the meaning of subsection (a) of this section except in the following counties: Anson, Caldwell, Caswell, Chowan, Cleveland, Cumberland, Durham, Forsyth, Gaston, Harnett, Haywood, Mecklenburg, Stanly, Stokes, Surry, Union, Vance."

**SECTION 5.** G.S. 15A-1340.16A reads as rewritten:

**"§ 15A-1340.16A. Enhanced sentence if defendant is convicted of a Class A, B1, B2, C, D, or E felony and the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony.**

(a), (b) Repealed by Session Laws 2003-378, s. 2, effective August 1, 2003.

(c) If a person is convicted of a ~~Class A, B1, B2, C, D, or E~~ felony and it is found as provided in this section that: (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and (ii) the person actually possessed the firearm or deadly weapon about his or her person, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased ~~by 60 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 60 months, as specified in G.S. 15A-1340.17(e) and (e1).~~ as follows:

- (1) If the felony is a Class A, B1, B2, C, D, or E felony, the minimum term of imprisonment to which the person is sentenced for that felony shall be increased by 72 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 72 months, as specified in G.S. 15A-1340.17(e) and (e1).
- (2) If the felony is a Class F or G felony, the minimum term of imprisonment to which the person is sentenced for that felony shall be increased by 36 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 36 months, as specified in G.S. 15A-1340.17(d).
- (3) If the felony is a Class H or I felony, the minimum term of imprisonment to which the person is sentenced for that felony shall be increased by 12 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 12 months, as specified in G.S. 15A-1340.17(d).

(d) An indictment or information for the ~~Class A, B1, B2, C, D, or E~~-felony shall allege in that indictment or information the facts set out in subsection (c) of this section. The pleading is sufficient if it alleges that the defendant committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and the defendant actually possessed the firearm or deadly weapon about the defendant's person. One pleading is sufficient for all ~~Class A, B1, B2, C, D, or E~~-felonies that are tried at a single trial.

(e) The State shall prove the issues set out in subsection (c) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (c) of this section, then a jury shall be impaneled to determine the issues.

(f) Subsection (c) of this section does not apply if the evidence of the use, display, or threatened use or display of the firearm or deadly weapon is needed to prove an element of the felony or if the person is not sentenced to an active term of imprisonment."

**SECTION 6.** G.S. 14-415.23 reads as rewritten:

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

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

(b) A unit of local government may adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by the unit of local government. If a unit of local government adopts such an ordinance with regard to recreational facilities, then the concealed handgun permittee may, nevertheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle.

(c) For purposes of this section, the term "recreational facilities" includes only the following: ~~a playground, an athletic field, a swimming pool, and an athletic facility.~~

- (1) An athletic field, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled for use with the municipality or county office responsible for operation of the park or recreational area.

- (2) A swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses relating to the swimming pool.
- (3) A facility used for athletic events, including, but not limited to, a gymnasium.

(d) For the purposes of this section, the term "recreational facilities" does not include any greenway, designated biking or walking path, an area that is customarily used as a walkway or bike path although not specifically designated for such use, open areas or fields where athletic events may occur unless the area qualifies as an "athletic field" pursuant to subdivision (1) of subsection (c) of this section, and any other area that is not specifically described in subsection (c) of this section."

**SECTION 7.** G.S. 122C-54(d1) reads as rewritten:

~~"(d1) After a judicial determination that an individual shall be involuntarily committed for either inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter, the clerk of superior court in the county where the judicial determination was made shall, as soon as practicable, cause a report of the commitment to be transmitted to the National Instant Criminal Background Check System (NICS). Reporting of an individual involuntarily committed to outpatient mental health treatment under this subsection shall only be reported if the individual is found to be a danger to self or others. The clerk shall also cause to be transmitted to NICS a record where an individual is found not guilty by reason of insanity or found mentally incompetent to proceed to criminal trial. The clerk, upon receipt of documentation that an affected individual has received a relief from disabilities pursuant to G.S. 122C-54.1 or any applicable federal law, shall cause the individual's record in NICS to be updated. Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of any of the following judicial determinations or findings, the clerk of superior court in the county where the determination or finding was made shall cause a record of the determination or finding to be transmitted to the National Instant Criminal Background Check System (NICS):~~

- (1) A determination that an individual shall be involuntarily committed to a facility for inpatient mental health treatment upon a finding that the individual is mentally ill and a danger to self or others.
- (2) A determination that an individual shall be involuntarily committed to a facility for outpatient mental health treatment upon a finding that the individual is mentally ill and, based on the individual's treatment history, in need of treatment in order to prevent further disability or deterioration that would predictably result in a danger to self or others.
- (3) A determination that an individual shall be involuntarily committed to a facility for substance abuse treatment upon a finding that the individual is a substance abuser and a danger to self or others.
- (4) A finding that an individual is not guilty by reason of insanity.
- (5) A finding that an individual is mentally incompetent to proceed to criminal trial.
- (6) A finding that an individual lacks the capacity to manage the individual's own affairs due to marked subnormal intelligence or mental illness, incompetency, condition, or disease.
- (7) A determination to grant a petition to an individual for the removal of disabilities pursuant to G.S. 122C-54.1 or any applicable federal law.

The 48-hour period for transmitting a record of a judicial determination or finding to the NICS under this subsection begins upon receipt by the clerk of a copy of the judicial determination or finding."

**SECTION 8.** The last two sentences of G.S. 122C-54(d1) are recodified as G.S. 122C-54(d2) and read as rewritten:

"(d2) The record of involuntary commitment for inpatient or outpatient mental health treatment or for substance abuse treatment required by subsection (d1) of this section shall be accessible only by an entity having proper access to NICS and shall remain otherwise confidential as provided by this Article. The clerk shall effect the transmissions to NICS required by the subsection according to protocols which shall be established by the Administrative Office of the Courts. The Administrative Office of the Courts shall adopt rules to require clerks of court to transmit information to the NICS as required by subsection (d1) of this section in a uniform manner."

**SECTION 9.** G.S. 122C-54.1 reads as rewritten:

**"§ 122C-54.1. Restoration process to remove mental commitment bar.**

(a) Any individual over the age of 18 may petition for the removal of the ~~mental commitment bar to purchase, possess, or transfer a firearm when the individual no longer suffers from the condition that resulted in the individual's involuntary commitment for either inpatient or outpatient mental health treatment pursuant to Article 5 of this Chapter and no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12.~~ disabilities pursuant to 18 U.S.C. § 922(d)(4) and (g)(4), G.S. 14-415.3, and G.S. 14-415.12 arising out of a determination or finding required to be transmitted to the National Instant Criminal Background Check System by subdivisions (1) through (6) of subsection (d1) of G.S. 122C-54. The individual may file the petition with a district court judge upon the expiration of any current inpatient or outpatient commitment. ~~No individual who has been found not guilty by reason of insanity may petition a court for restoration under this section.~~

(b) The petition must be filed in the district court of the county where the respondent was the subject of the most recent judicial determination or finding that either inpatient or outpatient treatment was appropriate or in the district court of the county of the petitioner's residence. ~~An individual disqualified from firearms possession due to a comparable out-of-State mental commitment shall make application in the county of residence.~~ The clerk of court upon receipt of the petition shall schedule a hearing using the regularly scheduled commitment court time and provide notice of the hearing to the petitioner and the ~~district attorney.~~ attorney who represented the State in the underlying case, or that attorney's successor. Copies of the petition must be served on the director of the relevant inpatient and/or outpatient treatment facility, in-State or out-of-State, facility and the district attorney in the petitioner's current county of residence.

(c) The burden is on the petitioner to establish by a preponderance of the evidence that the petitioner ~~no longer suffers from the condition that resulted in commitment and no longer poses a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12.~~ will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. The district attorney shall present any and all relevant information to the contrary. For these purposes, the district attorney may access and use any and all mental health records, juvenile records, and criminal history of the petitioner wherever maintained. The applicant must sign a release for the district attorney to receive any mental health records of the applicant. This hearing shall be closed to the public, unless the court finds that the public interest would be better served by conducting the hearing in public. If the court determines the hearing should be open to the public, upon motion by the petitioner, the court may allow for the in camera inspection of any mental health records. The court may allow the use of the record but shall restrict it from public disclosure, unless it finds that the public interest would be better served by making the record public. The district court shall enter an order that the petitioner ~~does or does not continue to suffer from the condition that resulted in commitment and does or does not continue to pose a danger to self or others for purposes of the purchase, possession, or transfer of firearms pursuant to 18 U.S.C. § 922, G.S. 14-404, and G.S. 14-415.12.~~ is or is not

likely to act in a manner dangerous to public safety and that the granting of the relief would or would not be contrary to the public interest. The court shall include in its order the specific findings of fact on which it bases its decision. In making its determination, the court shall consider the circumstances regarding the firearm disabilities from which relief is sought, the petitioner's mental health and criminal history records, the petitioner's reputation, developed at a minimum through character witness statements, testimony, or other character evidence, and any changes in the petitioner's condition or circumstances since the original determination or finding relevant to the relief sought. The decision of the district court may be appealed to the superior court for a hearing de novo. After a denial by the superior court, the applicant must wait a minimum of one year before reapplying. Attorneys designated by the Attorney General shall be available to represent the State, or assist in the representation of the State, in a restoration proceeding when requested to do so by a district attorney and approved by the Attorney General. An attorney so designated shall have all the powers of the district attorney under this section.

(d) Upon a judicial determination to grant a petition under this section, the clerk of superior court in the county where the petition was granted shall forward the order to the National Instant Criminal Background Check System (NICS) for updating of the respondent's record."

**SECTION 10.** G.S. 14-415.3 is amended by adding a new subsection to read:

"(c) The provisions of this section shall not apply to a person whose rights have been restored pursuant to G.S. 122C-54.1."

**SECTION 11.** G.S. 14-415.12(c) reads as rewritten:

"(c) An applicant shall not be ineligible to receive a concealed carry permit under subdivision (6) of subsection (b) of this section because of an adjudication of mental incapacity or illness or an involuntary commitment to mental health services if the individual's rights have been restored under G.S. 122C-54.1."

**SECTION 12.** G.S. 14-415.17 reads as rewritten:

"§ 14-415.17. **Permit; sheriff to retain and make available to law enforcement agencies a list of permittees; confidentiality of list and permit application information; availability to law enforcement agencies.**

(a) The permit shall be in a certificate form, as prescribed by the Administrative Office of the Courts, that is approximately the size of a North Carolina drivers license. It shall bear the signature, name, address, date of birth, and the drivers license identification number used in applying for the permit.

(b) The sheriff shall maintain a listing, including the identifying information, of those persons who are issued a permit. ~~The permit information shall be available upon request to all State and local law enforcement agencies.~~ Within five days of the date a permit is issued, the sheriff shall send a copy of the permit to the State Bureau of Investigation. ~~The State Bureau of Investigation shall make this information available to law enforcement officers and clerks of court on a statewide system.~~

(c) Except as provided otherwise by this subsection, the list of permit holders and the information collected by the sheriff to process an application for a permit are confidential and are not a public record under G.S. 132-1. The sheriff shall make the list of permit holders and the permit information available upon request to all State and local law enforcement agencies. The State Bureau of Investigation shall make the list of permit holders and the information collected by the sheriff to process an application for a permit available to law enforcement officers and clerks of court on a statewide system."

**SECTION 13.** G.S. 14-406 reads as rewritten:

"§ 14-406. **Dealer to keep record of sales; sales; confidentiality of records.**

(a) Every dealer in pistols and other weapons mentioned in this Article shall keep an accurate record of all sales thereof, including the name, place of residence, date of sale, etc., of

each person, firm, or corporation to whom or which such sales are made, which record shall be open to the inspection of any duly constituted State, county or police officer, within this State made. The records maintained by a dealer pursuant to this section are confidential and are not a public record under G.S. 132-1; provided, however, that the dealer shall make the records available upon request to all State and local law enforcement agencies.

(b) Repealed by Session Laws 2011-56, s. 3, effective April 28, 2011."

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

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

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

This section shall not apply to any of the following:

- ...
- (6) A person with a permit issued in accordance with Article 54B of this Chapter ~~or Chapter~~, with a permit considered valid under ~~G.S. 14-415.24~~ G.S. 14-415.24, or who is exempt from obtaining a permit pursuant to G.S. 14-415.25, who has a firearm in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.

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

**SECTION 15.** G.S. 14-277.2 is amended by adding a new subsection to read:

"(d) The provisions of this section shall not apply to concealed carry of a handgun at a parade or funeral procession by a person with a valid permit issued in accordance with Article 54B of this Chapter, with a permit considered valid under G.S. 14-415.24, or who is exempt from obtaining a permit pursuant to G.S. 14-415.25. This subsection shall not be construed to permit a person to carry a concealed handgun on any premises where the person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c)."

**SECTION 16.** G.S. 14-415.21 reads as rewritten:

**"§ 14-415.21. Violations of this Article punishable as an infraction.**

(a) A person who has been issued a valid permit who is found to be carrying a concealed handgun without the permit in the person's possession or who fails to disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun, as required by G.S. 14-415.11, shall be guilty of an infraction and shall be punished in accordance with G.S. 14-3.1. In lieu of paying a fine the person may surrender the permit.

(a1) A person who has been issued a valid permit who is found to be carrying a concealed handgun in violation of subdivision (c)(8) or subsection (c2) of G.S. 14-415.11 shall be guilty of a Class 1 misdemeanor.

(b) A person who violates the provisions of this Article other than as set forth in subsection (a) or (a1) of this section is guilty of a Class 2 misdemeanor."

**SECTION 17.1.** G.S. 14-403 reads as rewritten:

**"§ 14-403. Permit issued by sheriff; form of permit; expiration of permit.**



The sheriffs of any and all counties of this State shall issue to any person, firm, or corporation in any county a ~~license or~~ permit to purchase or receive any weapon mentioned in this Article from any person, firm, or corporation offering to sell or dispose of the weapon. The ~~license or~~ permit shall expire five years from the date of issuance. The ~~license or~~ permit shall be in the following form:

North Carolina,

\_\_\_\_\_ County.

I, \_\_\_\_\_, Sheriff of said County, do hereby certify that I have conducted a criminal background check of the applicant, \_\_\_\_\_ whose place of residence is \_\_\_\_\_ in \_\_\_\_\_ (or) in \_\_\_\_\_ Township, \_\_\_\_\_ County, North Carolina, and have received no information to indicate that it would be a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The applicant has further satisfied me as to his, her (or) their good moral character. Therefore, a ~~license or~~ permit is issued to \_\_\_\_\_ to purchase one pistol from any person, firm or corporation authorized to dispose of the same.

This ~~license or~~ permit expires five years from its date of issuance.

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Sheriff."

**SECTION 17.2.(a)** G.S. 14-404 reads as rewritten:

**"§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal; sheriff's fee.**

(a) Upon application, the sheriff shall issue the ~~license or~~ permit to a resident of that county, unless the purpose of the permit is for collecting, in which case a sheriff can issue a permit to a nonresident, when the sheriff has done all of the following:

- (1) Verified, before the issuance of a permit, by a criminal history background investigation that it is not a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The sheriff shall determine the criminal and background history of any applicant by accessing computerized criminal history records as maintained by the State Bureau of Investigation and the Federal Bureau of Investigation, by conducting a national criminal history records check, by conducting a check through the National Instant Criminal Background Check System (NICS), and by conducting a criminal history check through the Administrative Office of the Courts.
- (2) Fully satisfied himself or herself by affidavits, oral evidence, or otherwise, as to the good moral character of the applicant.
- (3) Fully satisfied himself or herself that the applicant desires the possession of the weapon mentioned for (i) the protection of the home, business, person, family or property, (ii) target shooting, (iii) collecting, or (iv) hunting.

(b) If the sheriff is not fully satisfied, the sheriff may, for good cause shown, decline to issue the ~~license or~~ permit and shall provide to the applicant within seven days of the refusal a written statement of the reason(s) for the refusal. The statement shall cite the specific facts upon which the sheriff concluded that the applicant was not qualified for the issuance of a permit and list, by statute number, the applicable law upon which the denial is based. An appeal from the refusal shall lie by way of petition to the chief judge of the district court for the district in which the application was filed. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal, and shall be final.

(b1) The sheriff shall keep a list of all permit denials, with the specific reasons for the denials noted. The list shall not include any information that would identify the applicant whose application was denied. The list, as described in this subsection, shall be a public record,

and the sheriff shall make the list available upon request to any member of the public. The list shall be organized by the quarters of the year, showing the number of denials and the reasons in each three-month period, and the list shall only be released for past, completed quarters.

- (c) A permit may not be issued to the following persons:
- (1) One who is under an indictment or information for or has been convicted in any state, or in any court of the United States, of a felony (other than an offense pertaining to antitrust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony in a court of any state or in a court of the United States and (i) who is later pardoned, or (ii) whose firearms rights have been restored pursuant to G.S. 14-415.4, may obtain a permit, if the purchase or receipt of a pistol permitted in this Article does not violate a condition of the pardon or restoration of firearms rights.
  - (2) One who is a fugitive from justice.
  - (3) One who is an unlawful user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. § 802).
  - (4) One who has been adjudicated mentally incompetent or has been committed to any mental institution.
  - (5) One who is an alien illegally or unlawfully in the United States.
  - (6) One who has been discharged from the Armed Forces of the United States under dishonorable conditions.
  - (7) One who, having been a citizen of the United States, has renounced his or her citizenship.
  - (8) One who is subject to a court order that:
    - a. Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;
    - b. Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner of the person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
    - c. Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.

(c1) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of any of the judicial findings, court orders, or other factual matters, relevant to any of the disqualifying conditions specified in subsection (c) of this section, the clerk of superior court shall cause a record of the determination or finding to be transmitted to the National Instant Criminal Background Check System (NICS). The record shall include a reference to the relevant statutory provision of G.S. 14-404 that precludes the issuance of a permit. The 48-hour period for transmitting a record of a judicial determination or finding to the NICS under this subsection begins upon receipt by the clerk of a copy of the judicial determination or finding.

(d) Nothing in this Article shall apply to officers authorized by law to carry firearms if the officers identify themselves to the vendor or donor as being officers authorized by law to carry firearms and provide any of the following:

- (1) A letter signed by the officer's supervisor or superior officer stating that the officer is authorized by law to carry a firearm.
- (2) A current photographic identification card issued by the officer's employer.

- (3) A current photographic identification card issued by a State agency that identifies the individual as a law enforcement officer certified by the State of North Carolina.
- (4) A current identification card issued by the officer's employer and another form of current photographic identification.

(e) The sheriff shall charge for the sheriff's services upon issuing the ~~license or~~ permit a fee of five dollars (\$5.00). There shall be no limit as to the number or frequency of permit applications and no other costs or fees other than provided in this subsection shall be charged for the permit, including, but not limited to, any costs for investigation, processing, or medical background checks by the sheriff or others providing records to the sheriff.

(f) Each applicant for a license or permit shall be informed by the sheriff within ~~30-14~~ days of the date of the application whether the license or permit will be granted or denied and, if granted, the license or permit shall be immediately issued to the applicant.

(g) An applicant shall not be ineligible to receive a permit under subdivision (c)(4) of this section because of involuntary commitment to mental health services if the individual's rights have been restored under G.S. 122C-54.1.

(h) The sheriff shall revoke any permit upon the occurrence of any event or condition subsequent to the issuance of the permit, or the applicant's subsequent inability to meet a requirement under this Article, which would have resulted in a denial of the application submitted to obtain the permit if the event, condition, or the applicant's current inability to meet a statutory requirement had existed at the time of the application and prior to the issuance of the permit. The following procedures apply to a revocation:

- (1) The sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.
- (2) Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.
- (3) The sheriff shall insure that the list of permits which have been revoked is immediately updated so that any potential transferor calling to check the validity of the permit will be informed of the revocation.
- (4) A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides.
- (5) Any person who willfully fails to surrender a permit upon notice of revocation shall be guilty of a Class 2 misdemeanor."

**SECTION 17.2.(b)** The Administrative Office of the Courts shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by October 1, 2013, on the progress towards implementation of the requirement in G.S. 14-404(c1), as enacted by subsection (a) of this section, and with any recommendation for legislation relating to that requirement.

**SECTION 17.2.(c)** G.S. 14-404(c1), as enacted by subsection (a) of this section, becomes effective July 1, 2014. The remainder of G.S. 14-404, as enacted by subsection (a) of this section, becomes effective October 1, 2013. The remainder of this section is effective when it becomes law.

**SECTION 17.3.** In order to ensure the validity of existing and unexpired permits, no later than January 31, 2014, the sheriff shall determine whether any of these permits are

subject to revocation pursuant to the standard set forth in G.S. 14-404(h). If a permit is subject to revocation, the sheriff shall immediately initiate the procedures set forth in G.S. 14-404(h)(1)-(3). No later than March 31, 2014, each sheriff shall submit a written report to the Joint Legislative Oversight Committee on Justice and Public Safety with the results of the review required by this section. The North Carolina Sheriffs' Association may compile the reports and submit a single report with the information from each county in lieu of each county submitting individual reports.

**SECTION 17.4.** G.S. 14-405 reads as rewritten:

"§ 14-405. **Record of permits kept by—~~sheriff.~~ sheriff; confidentiality of permit information.**

(a) ~~The sheriff shall keep a book, to be provided by the board of commissioners of each county, in which he shall keep a record of all licenses or permits issued under this article, including the name, date, place of residence, age, former place of residence, etc., of each such person, firm, or corporation to whom or which a license or permit is issued. The record shall include the date that a permit was revoked, the date that the permittee received notice of the revocation, whether the permit was surrendered, and the reason for the revocation.~~

(b) The records maintained by the sheriff pursuant to this section are confidential and are not a public record under G.S. 132-1; provided, however, that the sheriff shall make the records available upon request to any federal, State, and local law enforcement agencies and shall also make the records available to the court if the records are required to be released pursuant to a court order. Any application to a court for release of the list of permit holders and permit application information shall be by a petition to the chief judge of the district court for the district in which the person seeking the information resides."

**SECTION 18.** G.S. 14-315(b1)(1) reads as rewritten:

"(b1) Defense. – It shall be a defense to a violation of this section if all of the following conditions are met:

(1) The person shows that the minor produced an apparently valid permit to receive the weapon, if such a permit would be required under G.S. 14-402 ~~or G.S. 14-409.1~~ for transfer of the weapon to an adult."

**SECTION 19.** G.S. 20-187.2(a) reads as rewritten:

"(a) Surviving spouses, or in the event such members die unsurvived by a spouse, surviving children of members of North Carolina State, city and county law-enforcement agencies killed in the line of duty or who are members of such agencies at the time of their deaths, and retiring members of such agencies shall receive upon request and at no cost to them, the badge worn or carried by such deceased or retiring member. The governing body of a law-enforcement agency may, in its discretion, also award to a retiring member or surviving relatives as provided herein, upon request, the service side arm of such deceased or retiring members, at a price determined by such governing body, ~~upon securing a permit as required by G.S. 14-402 et seq. or 14-409.1 et seq., upon determining that the person receiving the weapon is not ineligible to own, possess, or receive a firearm under the provisions of State or federal law, or without such permit provided the weapon shall have~~ if the weapon has been rendered incapable of being fired. Governing body shall mean for county and local alcohol beverage control officers, the county or local board of alcoholic control; for all other law-enforcement officers with jurisdiction limited to a municipality or town, the city or town council; for all other law-enforcement officers with countywide jurisdiction, the board of county commissioners; for all State law-enforcement officers, the head of the department."

**SECTION 20.** G.S. 14-415.18 reads as rewritten:

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

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

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

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

(a1) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides shall revoke a permit of any permittee who is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Upon determining that a permit should be revoked pursuant to this subsection, the sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.

Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.

A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides. The determination by the court, on appeal, shall be limited to whether the permittee was adjudicated guilty of or received a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Revocation of the permit is not stayed pending appeal.

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

**SECTION 21.** G.S. 14-269(b) is amended by adding the following new subdivisions to read:

"(4d) Any person who is a North Carolina district court judge, North Carolina superior court judge, or a North Carolina magistrate and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The judge or magistrate shall secure the weapon in a locked compartment when the weapon is not on the person of the judge or magistrate;

(4e) Any person who is serving as a clerk of court or as a register of deeds and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful

controlled substance remains in the person's body. The clerk of court or register of deeds shall secure the weapon in a locked compartment when the weapon is not on the person of the clerk of court or register of deeds. This subdivision does not apply to assistants, deputies, or other employees of the clerk of court or register of deeds;"

**SECTION 22.** G.S. 14-415.27 reads as rewritten:

**"§ 14-415.27. Expanded permit scope for ~~district attorneys, assistant district attorneys, and investigators employed by office of the district attorney~~certain persons.**

Notwithstanding G.S. 14-415.11(c), any ~~person who is a district attorney, an assistant district attorney, or an investigator employed by the office of a district attorney and of the following persons~~ who has a concealed handgun permit issued pursuant to this Article or that is considered valid under G.S. 14-415.24 is not subject to the area prohibitions set out in G.S. 14-415.11(c) and may carry a concealed handgun in the areas listed in G.S. 14-415.11(c) unless otherwise prohibited by federal ~~law~~law:

- (1) A district attorney.
- (2) An assistant district attorney.
- (3) An investigator employed by the office of a district attorney.
- (4) A North Carolina district or superior court judge.
- (5) A magistrate.
- (6) A person who is elected and serving as a clerk of court.
- (7) A person who is elected and serving as a register of deeds."

**SECTION 23.** G.S. 113-291.1(c) reads as rewritten:

"(c) It is a Class 1 misdemeanor for any person taking wildlife to have in ~~his~~the person's possession any:

- (1) ~~Firearm equipped with a silencer or any device designed to silence, muffle, or minimize the report of the firearm. The firearm is considered equipped with the silencer or device whether it is attached to the firearm or separate but reasonably accessible for attachment during the taking of the wildlife.~~
- (2) Weapon of mass death and destruction as defined in G.S. 14-288.8. G.S. 14-288.8, other than a suppressor or other device designed to muffle or minimize the report of a firearm that is lawfully possessed by a person in compliance with 26 U.S.C. Chapter 53 §§ 5801-5871.

The Wildlife Resources Commission may prohibit individuals training dogs or taking particular species from carrying axes, saws, tree-climbing equipment, and other implements that may facilitate the unlawful taking of wildlife, except tree-climbing equipment may be carried and used by persons lawfully taking raccoons and opossums during open season."

**SECTION 24.** G.S. 14-415.10 reads as rewritten:

**"§ 14-415.10. Definitions.**

The following definitions apply to this Article:

- ...
- (4a) Qualified retired law enforcement officer. – An individual who meets the definition of "qualified retired law enforcement officer" contained in section 926C of Title 18 of the United States Code.~~all of the following qualifications:~~
    - a. ~~Retired in good standing from service with a public agency located in the United States as a law enforcement officer, other than for reasons of mental instability.~~
    - b. ~~Prior to retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the~~

~~incarceration of, any person for any violation of law, and had statutory powers of arrest.~~

- ~~e. Prior to retirement, was regularly employed as a law enforcement officer for a total of 15 years or more, or retired after completing probationary periods of service due to a service connected disability, as determined by the agency.~~
- ~~d. Has a vested right to benefits under the retirement plan of the agency.~~

...."

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

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

...

(4b) Any person who is a qualified retired law enforcement officer as defined in G.S. 14-415.10 and meets ~~all~~ any one of the following conditions:

- ~~a. Is a qualified retired law enforcement officer as defined in G.S. 14-415.10.~~
- ~~b-a.~~ Is the holder of a concealed handgun permit in accordance with Article 54B of this Chapter.
- b. Is exempt from obtaining a permit pursuant to G.S. 14-415.25.
- c. Is certified by the North Carolina Criminal Justice Education and Training Standards Commission pursuant to G.S. 14-415.26;

...."

**SECTION 26.** Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 3D.

"Armed Habitual Felon.

**"§ 14-7.35. Definitions.**

The following definitions apply in this Article:

- (1) "Convicted." – The person has been adjudged guilty of or has entered a plea of guilty or no contest to the firearm-related felony.
- (2) "Firearm-related felony." – Any felony committed by a person in which the person used or displayed a firearm while committing the felony.
- (3) "Status offender." – A person who is an armed habitual felon as described in G.S. 14-7.36.

**"§ 14-7.36. Armed habitual felon.**

Any person who has been convicted of or pled guilty to one or more prior firearm-related felony offenses in any federal court or state court in the United States, or combination thereof, is guilty of the status offense of armed habitual felon and may be charged with that status offense pursuant to this Article.

This Article does not apply to a second firearm-related felony unless it is committed after the conviction of a firearm-related felony in which evidence of the person's use, display, or threatened use or display of a firearm was needed to prove an element of the felony or was needed to establish the requirement for an enhanced or aggravated sentence. For purposes of this Article, firearm-related felonies committed before the person is 18 years of age shall not constitute more than one firearm-related felony. Any firearm-related felony to which a pardon has been extended shall not, for the purposes of this Article, constitute a firearm-related felony.

**"§ 14-7.37. Punishment.**

When any person is charged with a firearm-related felony and is also charged with being a status offender, the person must, upon conviction, be sentenced and punished as a status offender as provided by this Article.

**"§ 14-7.38. Charge of status offense as an armed habitual felon.**

(a) The district attorney, in the district attorney's discretion, may charge a person as a status offender pursuant to this Article. To sustain a conviction of a person as a status offender, the person must be charged separately for the principal firearm-related felony and for the status offense of armed habitual felon. The indictment charging the defendant as a status offender shall be separate from the indictment charging the person with the principal firearm-related felony.

(b) An indictment that charges a person with being a status offender must set forth all of the following information regarding the prior firearm-related felony:

(1) The date the offense was committed.

(2) The name of the state or other sovereign against whom the offense was committed.

(3) The dates that the plea of guilty was entered into or conviction returned in the offense.

(4) The identity of the court in which the plea or conviction took place.

(c) No defendant charged with being a status offender in a bill of indictment shall be required to go to trial on the charge within 20 days of the finding of a true bill by the grand jury; provided, the defendant may waive this 20-day period.

**"§ 14-7.39. Evidence of prior convictions of firearm-related felonies.**

In all cases in which a person is charged under the provisions of this Article with being a status offender, the record of prior conviction of the firearm-related felony shall be admissible in evidence, but only for the purpose of proving that the person has been convicted of a former firearm-related felony. A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court and shall be prima facie evidence of the facts set out therein.

**"§ 14-7.40. Verdict and judgment.**

(a) When an indictment charges a person with a firearm-related felony as provided by this Article and an indictment also charges that the person is a status offender, the defendant shall be tried for the principal firearm-related felony as provided by law. The indictment that the person is a status offender shall not be revealed to the jury unless the jury shall find that the defendant is guilty of the principal firearm-related felony with which the defendant is charged.

(b) If the jury finds the defendant guilty of the principal firearm-related felony, and it is found as provided in this section that (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and (ii) the person actually possessed the firearm or deadly weapon about his or her person, the bill of indictment charging the defendant as a status offender may be presented to the same jury. Except that the same jury may be used, the proceedings shall be as if the issue of status offender were a principal charge.

(c) If the jury finds that the defendant is a status offender, the trial judge shall enter judgment according to the provisions of this Article. If the jury finds that the defendant is not a status offender, the trial judge shall pronounce judgment on the principal firearm-related felony offense as provided by law.

**"§ 14-7.41. Sentencing of armed habitual felon.**

(a) A person who is convicted of a firearm-related felony and is also convicted of the status offense must, upon conviction or plea of guilty under indictment as provided in this Article, be sentenced as a Class C felon (except where the felon has been sentenced as a Class A, B1, or B2 felon). However, in no case shall the person receive a minimum term of imprisonment of less than 120 months. The court may not suspend the sentence and may not place the person sentenced on probation.

(b) In determining the prior record level, any conviction used to establish a person's status as an armed habitual felon shall not be used. Sentences imposed under this Article shall



run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section.

(c) A conviction as a status offender under this Article shall not constitute commission of a felony for the purpose of either Article 2A or Article 2B of Chapter 14 of the General Statutes.

(d) A sentence imposed under this Article may not be enhanced pursuant to G.S. 15A-1340.16A."

**SECTION 27.** Article 86 Chapter 15A of the General Statutes is amended by adding a new section to read:

**"§ 15A-1382.2. Sentencing court to include in judgment whether firearm was used.**

When a person is found guilty of a felony offense, the presiding judge shall determine whether the defendant used or displayed a firearm while committing the felony. If the judge determines that the defendant used or displayed a firearm while committing the felony, the sentencing court shall include that fact when entering the judgment that imposes the sentence for the felony conviction."

**SECTION 28.** Sections 1 through 6, 14 through 16, 18, 21, 23, 25, and 26 of this act become effective October 1, 2013, and apply to offenses committed on or after that date. Section 17.3 and this section are effective when they become law. Section 27 of this act becomes effective October 1, 2013, and applies to any judgment entered for a felony conviction on or after that date. Except as otherwise provided in this act, the remainder of this act becomes effective October 1, 2013. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of July, 2013.

s/ Louis M. Pate, Jr.  
Deputy President Pro Tempore of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

\_\_\_\_\_  
Pat McCrory  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2013