

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**HOUSE BILL 562
Committee Substitute Favorable 4/28/15
Committee Substitute #2 Favorable 4/30/15**

Short Title: Second Amendment Affirmation Act.

(Public)

Sponsors:

Referred to:

April 6, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE SECOND AMENDMENT AFFIRMATION ACT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** G.S. 14-269(b) reads as rewritten:

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

6 ...

7 (4a) Any person who is a district attorney, an assistant district attorney, or an
8 investigator employed by the office of a district attorney and who has a
9 concealed handgun permit issued in accordance with Article 54B of this
10 Chapter or considered valid under G.S. 14-415.24; provided that the person
11 shall not carry a concealed weapon at any time while in a courtroom or while
12 consuming alcohol or an unlawful controlled substance or while alcohol or
13 an unlawful controlled substance remains in the person's body. The district
14 attorney, assistant district attorney, or investigator shall secure the weapon in
15 a locked compartment when the weapon is not on the person of the district
16 attorney, assistant district attorney, or ~~investigator~~investigator.
17 Notwithstanding the provisions of this subsection, a district attorney may
18 carry a concealed weapon while in a courtroom;

19 ...

20 (8) A person employed by the Department of Public Safety who has been
21 designated in writing by the Secretary of the Department, who has a
22 concealed handgun permit issued in accordance with Article 54B of this
23 Chapter or considered valid under G.S. 14-415.24, and has in the person's
24 possession written proof of the designation by the Secretary of the
25 Department, provided that the person shall not carry a concealed weapon at
26 any time while consuming alcohol or an unlawful controlled substance or
27 while alcohol or an unlawful controlled substance remains in the person's
28 body;

29 (9) Any person who is an administrative law judge described in Article 60 of
30 Chapter 7A of the General Statutes and who has a concealed handgun permit
31 issued in accordance with Article 54B of this Chapter or considered valid
32 under G.S. 14-415.24, provided that the person shall not carry a concealed
33 weapon at any time while consuming alcohol or an unlawful controlled
34 substance or while alcohol or an unlawful controlled substance remains in
35 the person's body."



1 **SECTION 1.(b)** G.S. 14-415.27 reads as rewritten:

2 "**§ 14-415.27. Expanded permit scope for certain persons.**

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

7 (1) A district attorney.

8 (2) An assistant district attorney.

9 (3) An investigator employed by the office of a district attorney.

10 (4) A North Carolina district or superior court judge.

11 (5) A magistrate.

12 (6) A person who is elected and serving as a clerk of court.

13 (7) A person who is elected and serving as a register of deeds.

14 (8) A person employed by the Department of Public Safety who has been
15 designated in writing by the Secretary of the Department and who has in the
16 person's possession written proof of the designation.

17 (9) A North Carolina administrative law judge."

18 **SECTION 2.** G.S. 14-269.2(k) reads as rewritten:

19 (k) The provisions of this section shall not apply to a person who has a concealed
20 handgun permit that is valid under Article 54B of this Chapter, or who is exempt from
21 obtaining a permit pursuant to that Article, if any of the following conditions are met:

22 (1) ~~who~~ The person has a handgun in a closed compartment or container within
23 the person's locked vehicle or in a locked container securely affixed to the
24 person's vehicle. A person may unlock vehicle and only unlocks the vehicle
25 to enter or exit the vehicle provided while the firearm remains in the closed
26 compartment at all times and immediately locks the vehicle is locked
27 immediately following the entrance or exit.

28 (2) The person has a handgun concealed on the person and the person remains in
29 the locked vehicle and only unlocks the vehicle to allow the entrance or exit
30 of another person.

31 (3) The person is within a locked vehicle and removes the handgun from
32 concealment only for the amount of time reasonably necessary to do either
33 of the following:

34 a. Move the handgun from concealment on the person to a closed
35 compartment or container within the vehicle.

36 b. Move the handgun from within a closed compartment or container
37 within the vehicle to concealment on the person."

38 **SECTION 3.** G.S. 14-269.2 is amended by adding a new subsection to read:

39 (l) It is an affirmative defense to a prosecution under subsection (b) or (f) of this
40 section that the person was authorized to have a concealed handgun in a locked vehicle
41 pursuant to subsection (k) of this section and removed the handgun from the vehicle only in
42 response to a threatening situation in which deadly force was justified pursuant to
43 G.S. 14-51.3."

44 **SECTION 4.(a)** Article 45 of Chapter 106 of the General Statutes is amended by
45 adding a new section to read:

46 "**§ 106-503.2. Regulation of firearms at State Fair.**

47 (a) Except as otherwise provided in this section, the Commissioner of Agriculture is
48 authorized to prohibit the carrying of firearms in any manner on the State Fairgrounds during
49 the period of time each year that the State Fair is conducted. Any prohibition under this section
50 shall be posted conspicuously in compliance with G.S. 14-415.28.

1 (b) Notwithstanding subsection (a) of this section, any prohibition under this section
2 shall not apply to the following persons:

3 (1) Any person exempted by G.S. 14-269(b)(1), (2), (3), (4), or (5).

4 (2) Any person who has a concealed handgun permit that is valid under Article
5 54B of this Chapter, or who is exempt from obtaining a permit pursuant to
6 that Article, who has a handgun in a closed compartment or container within
7 the person's locked vehicle or in a locked container securely affixed to the
8 person's vehicle. A person may unlock the vehicle to enter or exit the vehicle
9 provided the firearm remains in the closed compartment at all times and the
10 vehicle is locked immediately following the entrance or exit."

11 **SECTION 4.(b)** The Department of Agriculture, in consultation with the
12 Department of Public Safety and the North Carolina Sheriffs' Association, shall study the best
13 method to allow persons with concealed handgun permits to carry a concealed handgun on their
14 person from a parking lot to the entrance of the State Fairgrounds, and a secure method of
15 storage for and retrieval of those handguns at or near the entrance. The Department of
16 Agriculture shall report to the Joint Legislative Oversight Committee on Justice and Public
17 Safety by April 1, 2016, with recommendations, including any necessary legislation.

18 **SECTION 5.(a)** G.S. 14-409.46 reads as rewritten:

19 "**§ 14-409.46. Sport shooting range protection.**

20 (a) Notwithstanding any other provision of law, a person who owns, operates, or uses a
21 sport shooting range in this State shall not be subject to civil liability or criminal prosecution in
22 any matter relating to noise or noise pollution resulting from the operation or use of the range if
23 the range ~~was in existence at least three years prior to the effective date of this Article and the~~
24 ~~range was~~ is in compliance with any noise control laws or ordinances that applied to the range
25 and its operation at the time the range began operation.

26 (b) A person who owns, operates, or uses a sport shooting range is not subject to an
27 action for nuisance on the basis of noise or noise pollution, and a State court shall not enjoin
28 the use or operation of a range on the basis of noise or noise pollution, if the range ~~was in~~
29 ~~existence at least three years prior to the effective date of this Article and the range was~~ is in
30 compliance with any noise control laws or ordinances that applied to the range and its operation
31 at the time the range began operation.

32 (c) Rules adopted by any State department or agency for limiting levels of noise in
33 terms of decibel level that may occur in the outdoor atmosphere shall not apply to a sport
34 shooting range ~~exempted from liability under this Article that was in operation prior to the~~
35 ~~adoption of the rule.~~

36 (d) A person who acquires title to real property adversely affected by the use of
37 property with a permanently located and improved sport shooting range constructed and
38 initially operated prior to the time the person acquires title shall not maintain a nuisance action
39 on the basis of noise or noise pollution against the person who owns the range to restrain,
40 enjoin, or impede the use of the range. If there is a substantial change in use of the range after
41 the person acquires title, the person may maintain a nuisance action if the action is brought
42 within one year of the date of a substantial change in use. This section does not prohibit actions
43 for negligence or recklessness in the operation of the range or by a person using the range.

44 (e) A sport shooting range that is operated and is not in violation of existing law at the
45 time of the enactment of an ordinance ~~and was in existence at least three years prior to the~~
46 ~~effective date of this Article,~~ shall be permitted to continue in operation even if the operation of
47 the sport shooting range at a later date does not conform to the new ordinance or an amendment
48 to an existing ordinance, provided there has been no substantial change in use."

49 **SECTION 5.(b)** G.S. 14-409.47 reads as rewritten:

50 "**§ 14-409.47. Application of Article.**

1 Except as otherwise provided in this Article, this Article does not prohibit a local
2 government from regulating the location and construction of a sport shooting range after ~~the~~
3 ~~effective date of this Article, September 1, 1997.~~"

4 **SECTION 6.** G.S. 14-415.4(a) reads as rewritten:

5 "(a) Definitions. – The following definitions apply in this section:

- 6 (1) Firearms rights. – The legal right in this State of a person to purchase, own,
7 possess, or have in the person's custody, care, or control any firearm or any
8 weapon of mass death and destruction as those terms are defined in
9 G.S. 14-415.1 and G.S. 14-288.8(c). ~~The term does not include any weapon~~
10 ~~defined in G.S. 14-409(a).~~
- 11 (2) Nonviolent felony. – The term nonviolent felony does not include any felony
12 that is a Class A, Class B1, or Class B2 felony. Also, the term nonviolent
13 felony does not include any Class C through Class I felony that is one of the
14 following:
- 15 a. An offense that includes assault as an essential element of the
16 offense.
- 17 b. An offense that includes the possession or use of a firearm or other
18 deadly weapon as an essential or nonessential element of the offense,
19 or the offender was in possession of a firearm or other deadly
20 weapon at the time of the commission of the offense.
- 21 c. An offense for which the offender was armed with or used a firearm
22 or other deadly weapon.
- 23 d. An offense for which the offender must register under Article 27A of
24 Chapter 14 of the General Statutes."

25 **SECTION 7.** G.S. 14-415.12(b) reads as rewritten:

26 "(b) The sheriff shall deny a permit to an applicant who:

- 27 (1) Is ineligible to own, possess, or receive a firearm under the provisions of
28 State or federal law.
- 29 (2) Is under indictment or against whom a finding of probable cause exists for a
30 felony.
- 31 (3) Has been adjudicated guilty in any court of a felony, unless: (i) the felony is
32 an offense that pertains to antitrust violations, unfair trade practices, or
33 restraints of trade, or (ii) the person's firearms rights have been restored
34 pursuant to G.S. 14-415.4.
- 35 (4) Is a fugitive from justice.
- 36 (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant,
37 stimulant, or narcotic drug, or any other controlled substance as defined in
38 21 U.S.C. § 802.
- 39 (6) Is currently, or has been previously adjudicated by a court or
40 administratively determined by a governmental agency whose decisions are
41 subject to judicial review to be, lacking mental capacity or mentally ill.
42 Receipt of previous consultative services or outpatient treatment alone shall
43 not disqualify an applicant under this subdivision.
- 44 (7) Is or has been discharged from the Armed Forces of the United States under
45 conditions other than honorable.
- 46 (8) ~~Is~~ Except as provided in subdivision (8b) of this section, or has been
47 adjudicated guilty of or received a prayer for judgment continued or
48 suspended sentence for one or more crimes of violence constituting a
49 misdemeanor, including but not limited to, a violation of a misdemeanor
50 under Article 8 of Chapter 14 of the General Statutes, or a violation of a
51 misdemeanor under G.S. ~~14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3,~~

1 14-269.4, 14-269.6, ~~14-276.1~~, 14-277, 14-277.1, 14-277.2, 14-277.3A,
 2 ~~14-281.1~~, ~~14-283~~, 14-283 except for a violation involving fireworks
 3 exempted under G.S. 14-414, 14-288.2, ~~14-288.4(a)(1) or (2)~~, 14-288.4(a)(1),
 4 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14,
 5 ~~14-288.20A~~, 14-318.2, 14-415.21(b), 14-415.26(d), or former
 6 ~~G.S. 14-277.3~~. G.S. 14-277.3 within three years prior to the date on which
 7 the application is submitted.

8 (8a) Is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g) as a
 9 result of a conviction of a misdemeanor crime of domestic violence.

10 (8b) Has been adjudicated guilty of or received a prayer for judgment continued
 11 or suspended sentence for one or more crimes of assault or a threat to assault
 12 a law enforcement officer, probation or parole officer, person employed at a
 13 State or local detention facility, firefighter, emergency medical technician,
 14 medical responder, or emergency department personnel.

15 (9) Has had entry of a prayer for judgment continued for a criminal offense
 16 which would disqualify the person from obtaining a concealed handgun
 17 permit.

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

21 (11) Has been convicted of an impaired driving offense under G.S. 20-138.1,
 22 20-138.2, or 20-138.3 within three years prior to the date on which the
 23 application is submitted."

24 **SECTION 8.** G.S. 113-291.1(c) reads as rewritten:

25 "(c) It is a Class 1 misdemeanor for any person taking wildlife to have in his possession
 26 any:

27 (1) Repealed by Session Laws 2013-369, s. 23, effective October 1, 2013.

28 (2) Weapon of mass death and destruction as defined in G.S. 14-288.8, other
 29 than a suppressor or other device designed to muffle or minimize the report
 30 of a firearm or short-barreled rifle that is lawfully possessed by a person in
 31 compliance with 26 U.S.C. Chapter 53 §§ 5801-5871.

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

36 **SECTION 9.** G.S. 14-415.21 reads as rewritten:

37 "**§ 14-415.21. Violations of this Article punishable as an infraction.**

38 (a) A person who has been issued a valid permit who is found to be carrying a
 39 concealed handgun without the permit in the person's possession or who fails to disclose to any
 40 law enforcement officer that the person holds a valid permit and is carrying a concealed
 41 handgun, as required by G.S. 14-415.11, shall be guilty of an infraction and shall be punished
 42 in accordance with G.S. 14-3.1. Any person who has been issued a valid permit who is found to
 43 be carrying a concealed handgun in violation of subdivision (c)(8) of G.S. 14-415.11 shall be
 44 guilty of an infraction and may be required to pay a fine of up to five hundred dollars
 45 (\$500.00). In lieu of paying a fine the person may surrender the permit.

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

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

1 **SECTION 10.(a)** The following statutes are repealed: G.S. 14-402, 14-403, 14-404,
2 14-405, and 14-407.1.

3 **SECTION 10.(b)** G.S. 14-315(b1) reads as rewritten:

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

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

9 (2) The person reasonably believed that the minor was not a minor.

10 (3) The person either:

11 a. Shows that the minor produced a drivers license, a special
12 identification card issued under G.S. 20-37.7, a military identification
13 card, or a passport, showing the minor's age to be at least the required
14 age for purchase and bearing a physical description of the person
15 named on the card reasonably describing the minor; or

16 b. Produces evidence of other facts that reasonably indicated at the time
17 of sale that the minor was at least the required age."

18 **SECTION 10.(c)** G.S. 14-404(c1) reads as rewritten:

19 "~~(c1) Excluding Saturdays, Sundays, and holidays, after receiving notice of any of the~~
20 ~~judicial findings, court orders, or other factual matters, relevant to any of the disqualifying~~
21 ~~conditions specified in subsection (c) of this section, the clerk of superior court shall determine~~
22 ~~which information can practicably be transmitted to the National Instant Criminal Background~~
23 ~~Check System (NICS) and shall transmit that information to NICS within 48 hours of that~~
24 ~~determination. The information shall include a reference to the relevant statutory provision of~~
25 ~~G.S. 14-404 that precludes the issuance of a permit.~~Excluding Saturdays, Sundays, and
26 holidays, the clerk of superior court shall transmit to the National Instant Criminal Background
27 Check System (NICS) those judicial findings and determinations entered and maintained by the
28 clerks in the Administrative Office of the Courts record management systems that can be used
29 to confirm a disqualifying factor as outlined in G.S. 14-404(c) within 48 hours of such entry,
30 provided that NICS requests that such data be transmitted and that the data can be transmitted
31 in a format acceptable by NICS."

32 **SECTION 10.(d)** The Administrative Office of the Courts (AOC), in consultation
33 with the State Bureau of Investigation (SBI), shall work with the National Instant Criminal
34 Background Check System (NICS) to determine the feasibility of reporting additional
35 information to NICS from the State's court and law enforcement records relevant to the
36 disqualifiers for purchase or possession in G.S. 14-404(c)(1), (c)(2), (c)(3), and (c)(8). On or
37 before March 1, 2016, the AOC and SBI shall report to the Joint Legislative Oversight
38 Committee on Justice and Public Safety. The report shall include the following:

39 (1) Any progress in providing to NICS additional information relevant to the
40 disqualifiers referenced in this section.

41 (2) Any specific barriers or roadblocks to transmitting to NICS that additional
42 information.

43 (3) Any legislative changes necessary to facilitate enhanced reporting to NICS
44 relevant to the disqualifiers.

45 (4) An estimate of the funding, technology, or resource needs required to
46 facilitate the additional reporting relevant to the disqualifiers.

47 **SECTION 10.(e)** The Administrative Office of the Courts shall use the sum of up
48 to twenty thousand dollars (\$20,000) available to it for the 2014-2015 fiscal year from the
49 Administrative Office of the Courts Internet Technology Fund to implement the provisions of
50 subsection (c) of this section.

51 **SECTION 11.** G.S. 14-409.40 reads as rewritten:

1 **"§ 14-409.40. Statewide uniformity of local regulation.**

2 (a) It is declared by the General Assembly that the regulation of firearms is properly an
3 issue of general, statewide concern, and that the entire field of regulation of firearms is
4 preempted from regulation by local governments except as provided by this section.

5 (a1) The General Assembly further declares that the lawful design, marketing,
6 manufacture, distribution, sale, or transfer of firearms or ammunition to the public is not an
7 unreasonably dangerous activity and does not constitute a nuisance per se and furthermore, that
8 it is the unlawful use of firearms and ammunition, rather than their lawful design, marketing,
9 manufacture, distribution, sale, or transfer that is the proximate cause of injuries arising from
10 their unlawful use. This subsection applies only to causes of action brought under subsection
11 (g) of this section.

12 (b) Unless otherwise permitted by statute, no county or municipality, by ordinance,
13 resolution, or other enactment, shall regulate in any manner the possession, ownership, storage,
14 transfer, sale, purchase, licensing, taxation, manufacture, transportation, or registration of
15 firearms, firearms ammunition, components of firearms, dealers in firearms, or dealers in
16 handgun components or parts.

17 (c) Notwithstanding subsection (b) of this section, a county or municipality, by zoning
18 or other ordinance, may regulate or prohibit the sale of firearms at a location only if there is a
19 lawful, general, similar regulation or prohibition of commercial activities at that location.
20 Nothing in this subsection shall restrict the right of a county or municipality to adopt a general
21 zoning plan that prohibits any commercial activity within a fixed distance of a school or other
22 educational institution except with a special use permit issued for a commercial activity found
23 not to pose a danger to the health, safety, or general welfare of persons attending the school or
24 educational institution within the fixed distance.

25 (d) No county or municipality, by zoning or other ordinance, shall regulate in any
26 manner firearms shows with regulations more stringent than those applying to shows of other
27 types of items.

28 (e) A county or municipality may regulate the transport, carrying, or possession of
29 firearms by employees of the local unit of government in the course of their employment with
30 that local unit of government.

31 (f) Nothing contained in this section prohibits municipalities or counties from
32 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-269.3,
33 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the possession of firearms in
34 public-owned buildings, on the grounds or parking areas of those buildings, or in public parks
35 or recreation areas, except nothing in this subsection shall prohibit a person from storing a
36 firearm within a motor vehicle while the vehicle is on these grounds or areas. Nothing
37 contained in this section prohibits municipalities or counties from exercising powers provided
38 by law in states of emergency declared under Article 1A of Chapter 166A of the General
39 Statutes.

40 (g) The authority to bring suit and the right to recover against any firearms or
41 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or on
42 behalf of any governmental unit, created by or pursuant to an act of the General Assembly or
43 the Constitution, or any department, agency, or authority thereof, for damages, abatement,
44 injunctive relief, or any other remedy resulting from or relating to the lawful design, marketing,
45 manufacture, distribution, sale, or transfer of firearms or ammunition to the public is reserved
46 exclusively to the State. Any action brought by the State pursuant to this section shall be
47 brought by the Attorney General on behalf of the State. This section shall not prohibit a
48 political subdivision or local governmental unit from bringing an action against a firearms or
49 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association for breach
50 of contract or warranty for defect of materials or workmanship as to firearms or ammunition
51 purchased by the political subdivision or local governmental unit.

1 (h) A person adversely affected by any ordinance, rule, or regulation promulgated or
2 caused to be enforced by any county or municipality in violation of this section may bring an
3 action for declaratory and injunctive relief and for actual damages arising from the violation.
4 The court shall award the prevailing party in an action brought under this subsection reasonable
5 attorneys' fees and court costs as authorized by law."

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

8 **"§ 14-409.41. Chief law enforcement officer certification; certain firearms.**

9 (a) Definitions. – The following definitions apply in this section:

10 (1) Certification. – The participation and assent of the chief law enforcement
11 officer necessary under federal law for the approval of the application to
12 transfer or make a firearm.

13 (2) Chief law enforcement officer. – Any official the United States Bureau of
14 Alcohol, Tobacco, Firearms, and Explosives, or any successor agency,
15 identified by regulation or otherwise as eligible to provide any required
16 certification for the transfer or making of a firearm.

17 (3) Firearm. – Any firearm that meets the definition of firearm in 26 U.S.C. §
18 5845.

19 (b) When a chief law enforcement officer's certification is required by federal law or
20 regulation for the transfer or making of a firearm, the chief law enforcement officer shall,
21 within 15 days of receipt of a request for certification, provide the certification if the applicant
22 is not prohibited by State or federal law from receiving or possessing the firearm and is not the
23 subject of a proceeding that could result in the applicant being prohibited by State or federal
24 law from receiving or possessing the firearm. If the chief law enforcement officer is unable to
25 make a certification as required by this section, the chief law enforcement officer shall provide
26 the applicant with a written notification of the denial and the reason for the denial.

27 Nothing in this section shall require a chief law enforcement officer to make a certification
28 the chief law enforcement officer knows to be untrue, but the chief law enforcement officer
29 may not refuse to provide certification based on a generalized objection to private persons or
30 entities making, possessing, or receiving firearms or any certain type of firearm the possession
31 of which is not prohibited by law.

32 (c) An applicant whose request for certification is denied may appeal the decision of the
33 chief law enforcement officer to the district court of the district in which the request for
34 certification was made. The court shall make a de novo review of the chief law enforcement
35 officer's decision to deny the certification. If the court finds that the applicant is not prohibited
36 by State or federal law from receiving or possessing the firearm, is not the subject of a
37 proceeding that could result in the applicant being prohibited by State or federal law from
38 receiving or possessing the firearm, and that no substantial evidence supports the chief law
39 enforcement officer's determination that the chief law enforcement officer cannot truthfully
40 make the certification, the court shall order the chief law enforcement officer to issue the
41 certification and award court costs and reasonable attorneys' fees to the applicant.

42 (d) Chief law enforcement officers and their employees who act in good faith are
43 immune from liability arising from any act or omission in making a certification as required by
44 this section."

45 **SECTION 13.** G.S. 14-415.15(a) reads as rewritten:

46 "(a) Except as permitted under subsection (b) of this section, within 45 days after receipt
47 of the items listed in G.S. 14-415.13 from an applicant, and receipt of the required records
48 concerning the mental health or capacity of the applicant, the sheriff shall either issue or deny
49 the permit. The sheriff shall issue or deny the permit within 90 calendar days from the date on
50 which the application was submitted regardless of the receipt of required records concerning

1 the mental health or capacity of the applicant. Such denial shall not be issued unless the
2 applicant is determined to be ineligible under G.S. 14-415.12.

3 The sheriff may conduct any investigation necessary to determine the qualification or
4 competency of the person applying for the permit, including record checks."

5 **SECTION 14.** G.S. 14-415.23 is amended by adding a new subsection to read:

6 "(e) A person adversely affected by any ordinance, rule, or regulation promulgated or
7 caused to be enforced by any unit of local government in violation of this section may bring an
8 action for declaratory and injunctive relief and for actual damages arising from the violation.
9 The court shall award the prevailing party in an action brought under this subsection reasonable
10 attorneys' fees and court costs as authorized by law."

11 **SECTION 15.** Chapter 90 of the General Statutes is amended by adding a new
12 Article to read:

13 "Article 1L.

14 "Preserving Firearms Privacy for Patients.

15 "**§ 90-21.75. Findings and intent.**

16 (a) Findings. – The General Assembly makes all of the following findings:

17 (1) That individuals have a right under the United States Constitution and the
18 North Carolina Constitution to keep and bear arms, which arms include
19 firearms and their ammunition.

20 (2) That an individual's decision to exercise this right is a private matter.

21 (3) That lawfully possessed, stored, and used firearms and ammunition are not a
22 threat to the public health.

23 (4) That health care providers do not have any special expertise in the safe
24 storage or use of firearms and ammunition merely by virtue of their status as
25 health care providers. To the extent that health care providers have general
26 advice to impart concerning firearms and ammunition, they may do so
27 without knowing whether any particular patient actually possesses or uses
28 these items.

29 (5) That health care providers do not need to know whether a patient lawfully
30 possesses or uses firearms and ammunition unless the patient (i) specifically
31 exhibits symptoms of illness or injury that the health care provider could
32 reasonably attribute to the possession or use of firearms and ammunition or
33 (ii) has expressed a desire to harm self or others.

34 (6) That a patient should not be compelled to participate in a health care
35 provider's gathering of statistical or demographic information about the use,
36 storage, and possession of firearms and ammunition for research or other
37 purposes not directly related to the patient's own health.

38 (b) Intent. – It is the intent of the General Assembly to ensure that (i) every patient may
39 obtain health care free from discrimination based on knowledge of, or unwarranted inquiry
40 into, constitutionally protected conduct involving firearms and ammunition and (ii) health care
41 providers may still obtain information about patient activities with respect to firearms and
42 ammunition when directly relevant to the patient's own health care.

43 "**§ 90-21.76. Definitions.**

44 The following definitions apply in this section:

45 (1) Health care provider. – Without limitation, any person who, pursuant to the
46 provisions of Chapter 90 of the General Statutes, is licensed or is otherwise
47 registered or certified to engage in the practice of or otherwise performs
48 duties associated with any of the following: medicine, surgery, dentistry,
49 pharmacy, optometry, midwifery, osteopathy, podiatry, chiropractic,
50 radiology, nursing, physiotherapy, pathology, anesthesiology, anesthesia,

1 laboratory analysis, rendering assistance to a physician, dental hygiene,
2 psychiatry, psychology, or a hospital.

3 (2) Patient. – Means a person under the care of or who seeks professional
4 services from a health care provider.

5 **"§ 90-21.77. Prohibited questionnaires about firearms and ammunition; exception.**

6 A health care provider is prohibited from asking a patient or the patient's parent, guardian,
7 or custodian to complete a questionnaire or other written form about the patient's lawful
8 ownership, possession, handling, storage, maintenance of, or other conduct involving firearms
9 and ammunition, unless the patient has been adjudicated incompetent due to mental illness.

10 **"§ 90-21.78. Prohibited disclosure of verbal inquiries about firearms and ammunition;**
11 **exception.**

12 Confidentiality of Verbal Inquiries About Firearms and Ammunition. – A health care
13 provider is prohibited from disclosing to any government official or agency the response of a
14 patient, or the patient's parent, guardian, or custodian, to verbal inquiries about the patient's
15 lawful ownership, possession, handling, storage, maintenance of, or other conduct involving
16 firearms and ammunition, unless the patient has been adjudicated incompetent due to mental
17 illness.

18 **"§ 90-21.79. Fines.**

19 The health care provider's licensing board may impose a fine on any health care provider
20 that violates any provision of this Article. The fine shall not exceed two hundred fifty dollars
21 (\$250.00) for nonwillful violations and shall not exceed five hundred dollars (\$500.00) for
22 willful violations. Each intentional and willful violation of this Article constitutes a separate
23 violation and is subject to a separate fine.

24 **"§ 90-21.80. Disciplinary action.**

25 Violation of this Article is a ground for disciplinary action against the health care provider
26 by the health care provider's licensing board or other regulatory authority."

27 **SECTION 16.** Sections 1, 2, 3, 8, and 9 of this act become effective October 1,
28 2015, and apply to offenses committed on or after that date. Section 5 of this act becomes
29 effective October 1, 2015, but shall not apply to pending litigation. Section 6 of this act is
30 effective when it becomes law and applies to restorations granted before, on, or after that date.
31 Section 7 of this act becomes effective October 1, 2015, and applies to permit applications
32 submitted on or after that date. Subsections (a) and (b) of Section 10 of this act become
33 effective October 1, 2018, and apply to offenses committed on or after that date. Sections 11,
34 14, and 15 of this act become effective October 1, 2015, and apply to violations occurring on or
35 after that date. Section 12 of this act becomes effective October 1, 2015. Section 13 becomes
36 effective October 1, 2015, and applies to applications submitted on or after that date. The
37 remainder of this act is effective when it becomes law. Prosecutions for offenses committed
38 before the effective date of this act are not abated or affected by this act, and the statutes that
39 would be applicable but for this act remain applicable to those prosecutions.