

# GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2017

## Legislative Fiscal Note

**BILL NUMBER:** House Bill 746 (Second Edition)

**SHORT TITLE:** Omnibus Gun Changes.

**SPONSOR(S):** Representatives Millis, Pittman, Burr, and Speciale

<b>FISCAL IMPACT</b>					
(\$ in millions)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Estimate Available					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
<b>State Impact</b>					
General Fund Revenues:	(\$3.4) to (\$2.8)	(\$3.4) to (\$2.8)	(\$3.4) to (\$2.8)	(\$3.4) to (\$2.8)	(\$3.4) to (\$2.8)
General Fund Expenditures:	(\$2.6) to (\$1.9)	(\$2.6) to (\$1.9)	(\$2.6) to (\$1.9)	(\$2.6) to (\$1.9)	(\$2.6) to (\$1.9)
<b>NET STATE IMPACT</b>	<b>(\$0.8) to (\$0.9)</b>	<b>(\$0.8) to (\$0.9)</b>	<b>(\$0.8) to (\$0.9)</b>	<b>(\$0.8) to (\$0.9)</b>	<b>(\$0.8) to (\$0.9)</b>
<b>Local Impact</b>					
Revenues:	(\$2.8) to (\$2.2)	(\$2.8) to (\$2.2)	(\$2.8) to (\$2.2)	(\$2.8) to (\$2.2)	(\$2.8) to (\$2.2)
Expenditures:	See Assumptions and Methodology				
<b>NET LOCAL IMPACT</b>	<b>(\$2.8) to (\$2.2)</b>	<b>(\$2.8) to (\$2.2)</b>	<b>(\$2.8) to (\$2.2)</b>	<b>(\$2.8) to (\$2.2)</b>	<b>(\$2.8) to (\$2.2)</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
Department of Public Safety, State Bureau of Investigation, Department of Natural and Cultural Resources, Department of Environmental Quality - Division of Marine Fisheries, Wildlife Resources Commission, State Board of Education, Local Sheriffs' Offices					
<b>EFFECTIVE DATE:</b> See bill summary					
<b>TECHNICAL CONSIDERATIONS:</b>					
Yes - See Technical Considerations Section					

*This Fiscal Note does not estimate the fiscal impact of criminal penalties included in the proposed bill. A separate incarceration note has been published to address those changes.*

**BILL SUMMARY:**

**PART I. CARRY MODIFICATIONS**

Part I would allow individuals who are 18 or older, US citizens, and not otherwise prohibited by law, to carry a handgun, open or concealed, without a concealed handgun permit. Individuals would still be able attain a permit for out-of-state reciprocity or other purposes. Additionally,

assistant district attorneys, in addition to district attorneys, would be able to carry a concealed handgun into a courtroom; except, as otherwise provided, this Part would become effective December 1, 2017.

**Sections 1.1 - 1.4** would create a new Article 54C regulating the carrying of handguns and providing restrictions on carrying weapons in certain locations.

**Sections 1.5(a) and 1.5(b)** would require the North Carolina Criminal Justice Education and Training Standards Commission to update their training and education materials related to the possession and carrying of handguns to reflect the changes made under this bill prior to December 1, 2017.

## **PART II. CLARIFYING CHANGES TO CARRY MODIFICATIONS.**

Part II would make conforming changes based on the carry modifications in Part I.

## **PART III. STANDARDIZE AND ENSURE UNIFORMITY OF CONCEALED HANDGUN PERMIT APPLICATIONS**

**Section 3.1** would increase the exemption period from two to five years for the exemption from the firearms safety and training course for permits for qualified former sworn law enforcement officers, qualified retired correctional officers, and qualified retired probation or parole certified officers.

**Section 3.2** would remove the requirement that an applicant for a concealed handgun permit “not suffer from a physical or mental infirmity that prevents the safe handling of a handgun” and modify the language to require that an applicant not have a currently diagnosed and ongoing mental disorder, as defined by the Diagnostic and Statistical Manual of Mental Disorders, that the sheriff determines would reasonably prevent the safe handling of a handgun. It would also require denial of a concealed handgun permit to a person if adjudicated by a court to be a danger to self or others due to mental illness or lack of mental capacity. Administrative determinations by government agencies would no longer be considered as grounds for denial of a permit.

**Section 3.3** authorizes a sheriff to schedule appointments for concealed handgun applications as long as the appointment is 15 business days or less from the date the applicant informs the sheriff that the applicant has all the proper information. This section also makes conforming changes to the release form requirements to reflect the changes in Section 3.2.

**Section 3.4** would require a sheriff to issued or deny concealed handgun permit within 90 calendar days of the application being submitted and would require the sheriff to submit a second request for mental health records if no response to the first request was received within 45 days.

**Section 3.5** would increase the fee for a new application for a concealed handgun permit from \$80 to \$81 and would apply to permit applications submitted on or after October 1, 2017. The \$1 fee increase would go to the North Carolina Department of Public Safety.

#### **PART IV. CONCEALED CARRY IN STATE LEGISLATIVE BUILDINGS**

Part IV would provide that a legislator, legislative employee, or qualified former sworn law enforcement officer who has a valid concealed handgun permit or current sworn law enforcement officer may carry concealed on the premises of the State Legislative Building and the Legislative Office Building. Legislative Services could require those individuals to give notice to the General Assembly Police when carrying a handgun. The Legislative Services Commission could also adopt a rule that no one may carry a firearm in the Gallery of the State Legislative Building.

#### **PART V. CHANGES TO WEAPONS ON EDUCATIONAL PROPERTY**

Part V would make the following changes to restriction on education property:

- Clarifies that the prohibition on weapons at an extracurricular activity sponsored by a school does not apply to persons not participating in, chaperoning, or spectating at the extracurricular activity when that extracurricular activity is conducted in a public place, including, but not limited to, a restaurant, public park, or museum.
- Allows an individual to drive in a locked vehicle on a public road across educational property with a weapon if the individual stays in the locked vehicle and only allows others to enter or exit the car.
- Authorizes an individual with a concealed handgun permit to carry a handgun on the premises of the place of religious worship that also serves as a private elementary and secondary school outside the operating hours of the school.

This Part would become effective December 1, 2017, and apply to offenses committed on or after that date.

#### **PART VI. PISTOL PERMIT/MENTAL HEALTH RECORD TO SHERIFF**

Part VI removes the authorization for a signed release related to mental health in the application, and prohibition on requiring additional documents or evidence from an applicant. The bill would instead grant the sheriff discretion to request disclosure of court orders concerning the mental health or mental capacity of the applicant, and require holders of those orders to release them, upon request, to the sheriff of the county. It would require the permit application to include a conspicuous warning stating that by filing the application, the individual understands that he or she is authorizing the sheriff to obtain criminal and mental health court orders. This part would apply to pistol purchases pending or submitted on or after August 1, 2017.

#### **PART VII: OTHER CHANGES TO WEAPONS LAW AND ADDITIONAL CONFORMING CHANGES**

**Section 7.1** would remove some of the judge's discretion in disposing of a weapon used in commission of a crime. If the owner of the weapon is not the convicted defendant, the judge must order return of the weapon to the rightful owner after certain findings are made. If the owner of the weapon is the convicted defendant, the judge has discretion to dispose of the weapon by turning it over to various agencies. If the defendant is the lawful owner and is not convicted, the judge must order the weapon returned.

**Section 7.2** would remove some of the judge’s discretion in disposing of a legally seized firearm that the district attorney determines is no longer needed. If the owner of the weapon is not the defendant, the judge must order return of the weapon to the rightful owner after certain findings are made. If the owner of the weapon is the defendant, the judge has discretion to return the gun to the defendant or dispose of the weapon by turning it over to various agencies.

**Section 7.3** would codify a common law offense by creating a Class 1 misdemeanor offense for a person who arms his or herself with an unusual and dangerous weapon for the purpose of terrifying others and goes about on a public highway to cause such terror. A person would not be guilty of such offense by virtue of that person possessing or carrying a handgun.

This Part would become effective December 1, 2017, and apply to offenses committed on or after that date.

**PART VIII. DEVELOP COMPREHENSIVE FIREARM EDUCATION AND WILDLIFE CONSERVATION COURSE**

Part VIII would require the State Board of Education to develop two high school elective courses: one in comprehensive firearm education and the other in wildlife conservation. Schools are not required to offer these elective courses. This part applies beginning with the 2018-2019 school year.

**ASSUMPTIONS AND METHODOLOGY:**

**Parts I-III**

*State Bureau of Investigation and Local Sheriff’s Offices*

Current law requires a permit for people to carry a concealed handgun. Applications are made at the local sheriffs’ office. The cost for the permit is \$80 initially, and then \$75 to renew. The sheriff’s office sends \$45 of the initial permit fee and \$40 of the renewal fee to the Department of Public Safety, State Bureau of Investigation (SBI) for background checks. The local sheriff retains the remaining \$35. The proposed bill increases the new application fee to \$81, of which \$46 goes to the State Bureau of Investigation and \$35 goes to the local sheriff.

The SBI has provided the number of concealed carry permit applications each year for the past four fiscal years.

<b>Fiscal Year</b>	<b>New Permit Applications</b>	<b>Renewal Applications</b>	<b>Total</b>	<b>Fee Revenue</b>
FY 2012-13	89,074	24,949	114,023	\$5,065,495
FY 2013-14	72,023	52,957	124,980	\$5,062,095
FY 2014-15	62,029	36,847	98,876	\$4,458,832
FY 2015-16	92,000	41,000	133,000	\$5,761,415
<b>Average</b>	<b>78,782</b>	<b>38,938</b>	<b>117,720</b>	<b>\$5,086,959</b>

The SBI uses the funds to support 23.25 FTE who handle background checks. The FY 2016-17 certified budget for the concealed carry permit section is \$4,244,457, including salaries and benefits for personnel and \$1.7 million in FBI background check fees. Any receipts collected over the budgeted amount typically revert to the General Fund. However, S.L. 2015-241, 2015 Appropriations Act, authorized the use of up to \$3 million in over realized receipts in the FY 2015-17 biennium to upgrade the Statewide Automated Fingerprint Identification System (SAFIS).

Sheriffs retain \$35 of the permit fee. The statute states that the funds shall be used by the sheriff to pay the costs of administering the permits and for other law enforcement purposes. Although there is no centralized database showing the permit revenue for local sheriffs, Fiscal Research can estimate the amount generated by multiplying \$35 (the sheriffs' portion of the application fee) times the total number of applications. The table below shows the estimated amount generated each year using the applicant data from the SBI.

<b>Est. Local Permit Fee Revenue</b>		
<b>Fiscal Year</b>	<b>Total Applicants</b>	<b>Fee Revenue</b>
FY 2012-13	114,023	\$3,990,805
FY 2013-14	124,980	\$4,374,300
FY 2014-15	98,876	\$3,460,660
FY 2015-16	133,000	\$4,655,000
<b>Average</b>	<b>117,720</b>	<b>\$4,120,191</b>

Many jurisdictions also charge new applicants \$10 for fingerprinting. The amount generated from fingerprinting services for new permit applicants is not included in the table above or considered in determining the fiscal impact of this bill.

The proposed bill allows people to carry a concealed handgun without first obtaining a permit. Permits would still be available for reciprocity purposes and for use in place of a pistol permit for purchasing firearms. In addition, permits can be obtained by certain classes of people to be able to carry a concealed handgun into otherwise prohibited areas.

It is not known how many people would apply for a new permit and how many people would renew existing permits under the proposed law. Although there are benefits to maintaining a permit, the cost of an optional permit could be considered prohibitive for some. Obtaining a new permit is more costly and time consuming than renewing a permit because new applicants must take an eight-hour course, written test, and shooting test. Therefore, for the purposes of this note, Fiscal Research is estimating that the new application rate would be approximately 20 to 30 percent of the current average of new applicants and that the renewal rate will be approximately 60 to 80 percent. To the extent that number is incorrect, this estimate may be understated or overstated.

If 20 to 30 percent of new applicants choose to get a permit, there would be between 15,756 and 23,635 applications submitted, generating \$724,776 to \$1,087,210 (15,756 times \$46 fee and 23,635 times \$46 fee) for the SBI. This would be a loss of revenue between \$2.5 and \$2.8 million. For the sheriffs, new applicant fees would generate between \$551,460 to \$827,225 (15,756 times

\$35 fee and 23,635 times \$35 fee), a loss of revenue between \$1.9 million and \$2.2 million. The following chart shows the calculations for the fiscal impact estimated by the reduction in new applications.

<b>Estimated Revenue Generated by New Permit Applications</b>			
	<b>Average Number of Current Applicants</b>	<b>20% of Current Applicants</b>	<b>30% of Current Applicants</b>
New Permits	78,782	15,756	23,635
State Fee	\$45	\$46	\$46
State Fee Revenue	\$3,545,190	\$724,776	\$1,087,210
<b>Difference from Current</b>		<b>(\$2,820,414)</b>	<b>(\$2,457,980)</b>
Local Fee	\$35	\$35	\$35
Local Fee Revenue	\$2,757,370	\$551,460	\$827,225
<b>Difference from Current</b>		<b>(\$2,205,910)</b>	<b>(\$1,930,145)</b>

If the rate of renewal drops to between 60 and 80 percent of the current average, there would be between 23,363 and 31,150 renewal applications submitted, generating \$934,520 to \$1,246,000 (23,363 times \$40 fee and 31,150 times \$40 fee) for the SBI. This would be a loss of revenue between \$311,520 and \$623,000. For the sheriffs, renewal fees would generate between \$817,705 and \$1,090,250 (23,363 times \$35 fee and 31,150 times \$35 fee), a loss of revenue between \$272,580 and \$545,125. The following chart shows the calculations for the fiscal impact estimated by the reduction in renewals.

<b>Estimated Revenue Generated by Renewal Applications</b>			
	<b>Average Number of Current Renewals</b>	<b>60% of Current Renewals</b>	<b>80% of Current Renewals</b>
Renewals	38,938	23,363	31,150
State Fee	\$40	\$40	\$40
State Fee Revenue	\$1,557,520	\$934,520	\$1,246,000
<b>Difference from Current</b>		<b>(\$623,000)</b>	<b>(\$311,520)</b>
Local Fee	\$35	\$35	\$35
Local Fee Revenue	\$1,362,830	\$817,705	\$1,090,250
<b>Difference from Current</b>		<b>(\$545,125)</b>	<b>(\$272,580)</b>

Based on current average collection amounts, this would be a loss of between \$2,769,500 and \$3,443,414 for the State General Fund. Local sheriffs' revenue would be reduced by between \$2,202,725 and \$2,751,035. The following chart shows the estimated State and local revenue impact.

<b>Summary of Estimated State and Local Revenue Impact</b>		
	<b>Low Range</b>	<b>High Range</b>
State Revenue Impact - New Applicants	(\$2,820,414)	(\$2,457,980)
State Revenue Impact - Renewals	(\$623,000)	(\$311,520)
<b>Total State Revenue Loss</b>	<b>(\$3,443,414)</b>	<b>(\$2,769,500)</b>
Local Revenue Impact - New Applicants	(\$2,205,910)	(\$1,930,145)
Local Revenue Impact - Renewals	(\$545,125)	(\$272,580)
<b>Total Local Revenue Loss</b>	<b>(\$2,751,035)</b>	<b>(\$2,202,725)</b>

Total State receipts collected would be used to support the SBI concealed carry permit section at reduced staffing levels, reducing the budget requirements for that section from \$4,244,457 to between \$1,659,296 and \$2,333,210, a reduction of between \$1,911,247 and \$2,585,161.

*Department of Natural and Cultural Resources*

G.S. 14-415.37 and G.S. 14-415.42 affect properties managed by the Department of Natural and Cultural Resources (DNCR). DNCR does not foresee an immediate, quantifiable fiscal impact to either expenditures or revenues resulting from these two statutes. However, DNCR expects that, in the longer term, HB 746 will have a negative fiscal impact on the Department, increasing costs and decreasing receipts. DNCR expects H.B. 746 will decrease visitation to the State parks and certain historic properties resulting in lower receipt collections. Further, the Department also expects increased security and others costs as a result of future firearms-related incidents at State parks and DNCR-operated properties, resulting in increased operating expenses for these facilities and the Department. No specific estimate of these fiscal impacts can be determined.

**Parts IV-VII**

No estimate is available for the impact of Parts IV-VII. Fiscal Research does not expect the fiscal impact of these sections to be significant.

**Part VIII**

**Section 8.1: Firearm Safety Elective Course**

Section 8.2 directs the State Board of Education to work with law enforcement agencies and firearms associations to develop a comprehensive firearm education course that can be offered as an elective at the high school level. Schools are not required to offer this elective course. This course would facilitate the learning of science, technology, engineering, and mathematics (STEM) principles. The course cannot include the presence or use of live ammunition, and must be conducted under the supervision of an adult who has been approved by the school principal.

The fiscal impact on the State Board of Education and local school administrative units (LEAs) as a result of this requirement is unknown, but costs could arise due to curriculum development, increased liability, new safety measures, and the purchasing of equipment related to the Firearm Safety Elective Course. Below are the potential costs at the Statewide and local level:

- Statewide: Costs incurred by the State Board of Education for developing a Fire Arm Education course are unknown. Given the expertise necessary to develop the course, the Department of Public Instruction (DPI) would likely need to purchase this curriculum from an outside entity. However, according to DPI, the cost of purchasing this curriculum is unknown.
- Local: Local school boards, its members, employees, designees, and other school personnel are potentially liable for any damages incurred as a result of the course offering or presence of firearms. As a result, liability insurance for those LEAs who offer the course may increase.

Additionally, LEAs may need to implement increased safety measures if they decide to offer the course. According to DPI, LEAs may need to put metal detectors at each classroom these courses are taught in. Detectors would cost approximately \$30 per door for hand held detectors, or about \$1,900 per door for full coverage standing metal detectors. However, it is currently unknown how many schools would offer this course, and the total potential cost at the local level would be tied to the number of schools that provide it.

Last, LEAs that offer this course may need to purchase firearms and other related equipment. It is unknown how many LEAs would need to purchase these items and what the total local impact would be.

Section 8.1 will also affect Departments with law enforcement officers including the Department of Public Safety, the Department of Environmental Quality's (DEQ) Division of Marine Fisheries (DMF), and the Wildlife Resources Commission (WRC).

While an exact cost cannot be determined without more information on how the curriculum will be developed and the role of these agencies in that development, neither DMF nor WRC expect a large cost for consulting on the development of this curriculum. The primary costs would be in existing staff time to review materials and travel to Raleigh.

#### Section 8.2: Wildlife Conservation Elective Course

Section 8.2 directs the State Board of Education to work with WRC, DMF, and the Wildlife Management Institute to develop a comprehensive course on the North American model of wildlife conservation.

According to DPI and the State Board of Education, the fiscal impact of developing a comprehensive course curriculum on Wildlife Conservation is unknown. However, the State Board currently does not have expertise in this subject area, and does not have existing curriculum it has developed standards for on this topic.

Neither WRC nor DMF are aware of any existing wildlife conservation course curriculum that would be appropriate or relevant for this purpose. The cost to both WRC and DMF cannot be determined without more information on how they would be involved in the development of the



curriculum. The primary costs would be existing staff time and travel costs required for attending meetings in Raleigh.

**SOURCES OF DATA:**

State Bureau of Investigation

**TECHNICAL CONSIDERATIONS:** None

1. Section 8.1: Law enforcement agencies is not defined in the bill; G.S. 132-1.4(b) (3) provides a broad definition of law enforcement agencies. Such an undefined term may unnecessarily require many different State entities to be involved in the development of this curriculum.
2. Section 8.2: WRC would recommend striking “Wildlife Management Institute” from this section and replacing it with “others as necessary.” This would remove the mandate of preselecting a specific consultant or contractor for the development of this curriculum, which may reduce costs associated with developing the curriculum.

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**DATE:** June 7, 2017



**Signed Copy Located in the NCGA Principal Clerk's Offices**