

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1326

Short Title: Regulate AKA Assault Rifles.

(Public)

Sponsors: Representatives Blue; and Hardaway.

Referred to: Judiciary.

April 12, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE SALE AND POSSESSION OF ASSAULT
3 WEAPONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 14 of the General Statutes is amended by adding a new
6 Article to read:

7 **“ARTICLE 53B.**
8 **"ASSAULT WEAPONS.**

9 **"§ 14-409.20. Purpose.**

10 The General Assembly finds that the proliferation and use of assault weapons poses
11 a threat to the health, safety, and security of all citizens of this State. As used in this
12 Article, ‘assault weapon’ generally means a firearm of such a nature and with such a
13 high rate of fire and capacity for firepower that its function as a legitimate sports and
14 recreational firearm is substantially outweighed by the danger that it can be used to kill
15 and injure human beings. It is, therefore, the intent of the General Assembly in enacting
16 this Article to place restrictions on the use of these assault weapons and to establish a
17 registration and permit procedure for their lawful sale and possession. It is not,
18 however, the intent of the General Assembly to place restrictions on the use of those
19 weapons which are primarily designed and intended for hunting, target practice, or other
20 legitimate sorts or recreational activities.

21 **"§ 14-409.21. Definitions.**

22 (a) For purposes of this Article, the terms listed below shall have the following
23 meanings:

- 1 (1) 'Rifle' means a weapon, whether it is intended to be fired from the
2 shoulder, that is designed or redesigned, made or remade, to fire a
3 fixed cartridge and is not a pistol.
- 4 (2) 'Semiautomatic' means a weapon which fires a single projectile for
5 each single pull of the trigger and which employs a magazine.
- 6 (3) 'Shotgun' means a weapon, whether it is intended to be fired from the
7 shoulder, that is designed or redesigned, made or remade, to fire a
8 fixed shotgun shell.
- 9 (b) For purposes of this Article, 'assault weapon' includes all of the following:
- 10 (1) All semiautomatic action, centerfire rifles that accept detachable
11 magazines with a capacity of 20 rounds or more.
- 12 (2) All semiautomatic shotguns with a barrel of less than 19 inches and a
13 folding stock or a magazine capacity of more than six rounds.
- 14 (3) All semiautomatic pistols that are modifications of rifles; that is,
15 having the same make, caliber, and action design but a shorter barrel
16 and no rear stock, or that are semiautomatic weapons originally
17 designed to accept magazines with a capacity of 20 rounds or more.
- 18 (4) Any firearm which may be readily restored to an operable assault
19 weapon.
- 20 (5) Any part, or combination of parts, designed or intended to convert a
21 firearm into an assault weapon, or any combination or parts from
22 which an assault weapon may be readily assembled if those parts are in
23 the possession or under the control of the same person.
- 24 (c) As used in this Article, 'assault weapon' does not include any of the
25 following:
- 26 (1) All weapons that do not use fixed ammunition, all weapons that were
27 in production prior to 1898, all manually operated bolt-action
28 weapons, all lever-action weapons, all slide-action weapons, all single-
29 shot weapons, all multiple-barrel weapons, all revolving-cylinder
30 weapons, all semiautomatic weapons that use exclusively Mannlicher-
31 style clips, all semiautomatic weapons in production prior to 1954, and
32 all rimfire weapons that employ a tubular magazine.
- 33 (2) Any short-barreled shotgun.
- 34 (3) Any short-barreled rifle.
- 35 (4) Any antique or relic firearm, or movie prop.
- 36 (5) Any firearm that uses .22 caliber rimfire ammunition.
- 37 (6) Any firearm that is declared to be a legitimate sports or recreational
38 firearm by the Assault Weapons Commission pursuant to G.S. 14-
39 409.26.
- 40 (7) Any assault weapon which has been modified either to render it
41 permanently inoperable or to permanently make it a device no longer
42 defined as an assault weapon.
- 43 (d) Except as specifically stated in this section, the provisions of this section are
44 independent of, and supplemental to, any other provisions of law, and nothing shall

1 prevent a device defined as an 'assault weapon' in this section from also being regulated
2 under other provisions of law.

3 **"§ 14-409.22. Unlawful activities.**

4 Any person, firm, or corporation, who within this State manufactures or causes to be
5 manufactured, imports into the State, keeps for sale, or offers or exposes for sale, or
6 who gives, lends, or possesses any assault weapon, except as provided by this Article, is
7 guilty of a misdemeanor and upon conviction shall be punished by imprisonment not to
8 exceed one year. Notwithstanding any other provision of law, any person who commits
9 another crime while violating this Article may receive an additional, consecutive
10 punishment of one year for violating this Article in addition and consecutive to the
11 punishment.

12 **"§ 14-409.23. Registration and permits.**

13 (a) Any individual who lawfully possesses an assault weapon, as defined in G.S.
14 14-409.21, prior to October 1, 1989, shall register the firearm by January 1, 1991, with
15 the Department of Justice pursuant to such procedures as the department may establish.
16 The registration shall contain a description of the firearm that identifies it uniquely,
17 including all identification marks, the full name, address, date of birth, and fingerprints
18 of the owner, and such other information as the department may deem appropriate. Any
19 change of address of the owner must be registered with the department within 90 days
20 of the change. The department may charge a fee for registration not to exceed the actual
21 processing costs of the department.

22 (b) No assault weapon possessed pursuant to this Article may be sold or
23 transferred on or after January 1, 1990, to anyone within this State other than to a
24 licensed gun dealer as defined in G.S. 14-409.25. Any individual who obtains title to an
25 assault weapon registered under this Article by bequest or intestate succession must,
26 within 90 days, either render the weapon inoperable in accordance with G.S. 14-
27 409.21(c)(7), sell the weapon to a licensed gun dealer, obtain a permit from the
28 Department of Justice in the manner provided by this Article, or remove the weapon
29 from this State.

30 (c) A person who has registered an assault weapon acquired prior to October 1,
31 1989, under this Article may possess it only under the following conditions:

- 32 (1) At that person's residence, place of business, or other property owned
33 by that person, or on property owned by another with the owner's
34 express permission.
- 35 (2) While on the premises of a target range of a public or private club or
36 organization organized for the purpose of practicing shooting at
37 targets.
- 38 (3) While on a target range which holds a regulatory or business license
39 for the purpose of practicing shooting at that target range.
- 40 (4) While on the premises of a shooting club.
- 41 (5) While attending any exhibition of firearms and which is sponsored by,
42 conducted under the auspices of, or approved by a law enforcement
43 agency or a nationally or State recognized entity that fosters
44 proficiency in, or promotes education about, firearms.

1 (d) No person under the age of 18 years and no person described in G.S. 14-
2 415.1 may register or possess an assault weapon.

3 **"§ 14-409.24. Permit to acquire assault weapon.**

4 Any individual who acquires or wishes to acquire any assault weapon in existence
5 on or after October 1, 1989, must first obtain a permit from the Department of Justice in
6 the manner provided by this Article.

7 **"§ 14-409.25. Licensed gun dealers.**

8 (a) Any licensed gun dealer as defined in subsection (b), who lawfully possesses
9 an assault weapon pursuant to G.S. 14-409.23, in addition to the uses allowed in G.S.
10 14-409.23, may transport the weapon between dealers or out of the State, display it at
11 any gun show licensed by a State or local governmental entity, or sell it to a resident
12 outside the State.

13 (b) The term 'licensed gun dealer,' as used in this Article means a person who has
14 a federal firearms license and any business license required by a State or local
15 governmental entity.

16 **"§ 14-409.26. Assault Weapons Commission.**

17 (a) There is created the Assault Weapons Commission within the Department of
18 Justice which shall consist of nine members, appointed as follows: the Director of the
19 State Bureau of Investigation, Department of Justice, who shall be the presiding officer;
20 the Executive Director of the North Carolina Wildlife Resources Commission, a district
21 attorney, who shall be appointed by the Governor; a sheriff of a county with a
22 population under 200,000, who shall be appointed by the Governor; a chief of police of
23 a city with a population over 150,000, who shall be appointed by the Governor; a
24 sheriff of a county with a population over 200,000 who shall be appointed by the
25 Speaker of the House; a chief of police of a city with a population over 150,000, who
26 shall be appointed by the President Pro Tempore of the Senate; a member of a broad-
27 based organization representing hunters or others who use firearms for sports and
28 recreational purposes, who shall be appointed by the President Pro Tempore of the
29 Senate; and a member of a broad-based peace officer organization, who shall be
30 appointed by the Speaker of the House of Representatives.

31 The Executive Director of the North Carolina Wildlife Resources Commission and
32 the Director of the State Bureau of Investigation, Department of Justice, shall serve as
33 ex officio members. Each of the other members shall serve two-year terms, except that
34 for the initial term after enactment of this section the district attorney, the sheriff of a
35 county with a population under 200,000, the member of a broad-based organization
36 representing hunters or others who use firearms for sports or recreational purposes, and
37 the member of a broad-based peace officer organization shall serve for one year.

38 Members of the commission shall be entitled to a reasonable per diem and
39 reimbursement for other expenses necessary to the fulfillment of their duties, and staff
40 and administrative support shall be provided as appropriate by the Director of the State
41 Bureau of Investigation. The commission shall meet from time to time as is necessary
42 to perform its duties.

43 (b) The commission, as soon as is practical, shall adopt rules and regulations
44 establishing procedures for determining whether particular firearms are legitimate sports

1 or recreational firearms. The adoption of the rules and regulations shall be adopted in
2 accordance with the provisions of Chapter 150B. The rules and regulations shall
3 provide for the speedy resolution of petitions filed pursuant to subsection (d). Copies of
4 the rules and regulations shall be made available to the public and published in the
5 North Carolina Register.

6 (c) In determining whether a firearm is a legitimate sports or recreational firearm,
7 the commission shall consider the findings and intent set forth in G.S. 14-409.20.

8 The commission shall specifically consider the usefulness and actual use of the
9 firearm for hunting, target practice, or other sports or recreational activities, as well as
10 the firearm's history of and potential for use in criminal activity.

11 In general, a shorter length than that of widely accepted hunting or other recreational
12 firearms, the use of a folding stock, an original design for military use, a greater rate of
13 fire or firing capacity than reasonably necessary for legitimate sports or recreational
14 activities, or a uniquely and particularly lethal nature, are factors indicating that a
15 firearm is not a legitimate sports or recreational firearm.

16 (d) Any licensed gun dealer, as defined in G.S. 14-409.25, or any manufacturer
17 of any firearm which is described in G.S. 14-409.21 may petition the commission to
18 have that firearm declared to be a legitimate sports or recreational firearm under the
19 procedures established under this Article. The commission may impose a fee for each
20 petition not to exceed the actual cost of investigating and processing the petition.

21 (e) The commission shall notify the General Assembly within seven days of any
22 findings made under this Article. No decision by the commission under this Article
23 shall become effective for 90 days."

24 Sec. 2. This act shall become effective October 1, 1989.