

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 8\*

Committee Substitute Favorable 2/18/94

Committee Substitute #2 Favorable 2/24/94

Fourth Edition Engrossed 3/2/94

Senate Select Committee on Corrections/Punishment Committee Substitute Adopted 3/3/94

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Short Title: Amend Felony Firearms Act.

(Public)

Sponsors:

Referred to:

February 8, 1994

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE POSSESSION OF FIREARMS AND WEAPONS OF MASS DEATH AND DESTRUCTION BY FELONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-415.1 reads as rewritten:

"§ 14-415.1. Possession of firearms, etc., by felon prohibited.

(a) ~~(Effective until January 1, 1995)~~ Except as provided in subsections (a1) and (a2), ~~It shall be~~ it is unlawful for any person who has been convicted of any ~~crime set out in subsection (b) of this section~~ felony to purchase, own, possess, or have in his ~~the~~ person's custody, care, or control any handgun or other firearm with a barrel length of less than 18 inches or an overall length of less than 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(e), ~~within five years from the date of such conviction, or the unconditional discharge from a correctional institution, or termination of a suspended sentence, probation, or parole upon such conviction, whichever is later.~~ G.S. 14-288.8(c).

Every person violating the provisions of this section ~~shall be punished as is~~ a Class I H felon.

1 Nothing in this subsection would prohibit the right of any person to have possession  
2 of a ~~firearm~~ firearm, other than a handgun or other firearm with a barrel length of less  
3 than 18 inches or an overall length of less than 26 inches or any weapon of mass death  
4 and destruction, within ~~his~~ the person's own home or on ~~his~~ the person's lawful place of  
5 business.

6 Any firearm or weapon of mass death and destruction lawfully seized for a violation  
7 of this section shall be forfeited to the State and disposed of as provided in G.S. 14-  
8 269.1.

9 (a1) After a period of five years from the date of conviction, unconditional  
10 discharge from a correctional institution, or termination of parole, probation, or  
11 suspension of sentence, whichever is later, a person convicted of a felony punishable as  
12 a Class A, B, C, D, E, or F felony may petition the superior court in the jurisdiction in  
13 which the person resides for a permit to purchase, own, possess, or control a firearm,  
14 other than a handgun or other firearm with a barrel length of less than 18 inches or an  
15 overall length of less than 26 inches or a weapon of mass death and destruction. The  
16 presiding judge may, for good cause shown, grant the petition and order the issuance of  
17 a permit.

18 (a2) **(Effective until January 1, 1995)** In order to comply with the federal Gun  
19 Control Act of 1968, as amended, 18 U.S.C. § 922, a person convicted of a felony  
20 punishable as a Class G, H, I, or J felony may, after a period of one year from the date  
21 of conviction, unconditional discharge from a correctional institution, or termination of  
22 parole, probation, or suspension of sentence, whichever is later, petition the superior  
23 court in the jurisdiction in which the person resides for a permit to purchase, own,  
24 possess, or control a firearm, other than a handgun or other firearm with a barrel length  
25 of less than 18 inches or an overall length of less than 26 inches or a weapon of mass  
26 death and destruction. The presiding judge may, for good cause shown, grant the  
27 petition and order the issuance of a permit.

28 (b) Prior convictions which cause disenfranchisement under this section shall ~~only~~  
29 ~~include~~ include only:

- 30 (1) Felonious violations of Articles 3, 4, 6, 7A, 8, 10, 13, 14, 15, 17, 30,  
31 33, 36, 36A, 52A, or 53 of Chapter 14 of the General Statutes, or of  
32 Article 5 of Chapter 90 of the General Statutes; Felonies; and
- 33 (2) Common law robbery and common law maim; and
- 34 (3) Violations of criminal laws of other states or of the United States  
35 substantially similar to the crimes covered in ~~subdivisions (1) and (2)~~  
36 subdivision (1) which are punishable where committed by  
37 imprisonment for a term exceeding two years.

38 When a person is charged under this section, records of prior convictions of any offense,  
39 whether in the courts of this State, or in the courts of any other state or of the United  
40 States, shall be admissible in evidence for the purpose of proving a violation of this  
41 section. The term 'conviction' is defined as a final judgment in any case in which felony  
42 punishment, or imprisonment for a term exceeding two years, as the case may be, is  
43 permissible, without regard to the plea entered or to the sentence imposed. A judgment  
44 of a conviction or a plea of guilty to such an offense certified to a superior court of this

1 State from the custodian of records of any state or federal court under the same name as  
2 that by which the defendant is charged shall be **prima facie** evidence that the identity of  
3 such person is the same as the defendant so charged and shall be **prima facie** evidence  
4 of the facts so certified.

5 (c) The indictment charging the defendant under the terms of this section shall be  
6 separate from any indictment charging him with other offenses related to or giving rise  
7 to a charge under this section. An indictment which charges the person with violation  
8 of this section must set forth the date that the prior offense was committed, the type of  
9 offense and the penalty therefor, and the date that the defendant was convicted or plead  
10 guilty to such offense, the identity of the court in which the conviction or plea of guilty  
11 took place and the verdict and judgment rendered therein."

12 Sec. 2. G.S. 14-415.1, as amended by this act, reads as rewritten:

13 "**§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

14 (a) Except as provided in subsections (a1) and (a2), ~~subsection (a1)~~, it is unlawful  
15 for any person who has been convicted of ~~any~~ a Class A, B, C, D, E, or F felony to  
16 purchase, possess, or have in the person's custody, care, or control any handgun or other  
17 firearm with a barrel length of less than 18 inches or an overall length of less than 26  
18 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(c).

19 Every person violating the provisions of this section is a Class H felon.

20 Nothing in this subsection would prohibit the right of any person to have possession  
21 of a firearm, other than a handgun or other firearm with a barrel length of less than 18  
22 inches or an overall length of less than 26 inches or any weapon of mass death and  
23 destruction, within the person's own home or on the person's lawful place of business.

24 Any firearm or weapon of mass death and destruction lawfully seized for a violation  
25 of this section shall be forfeited to the State and disposed of as provided in G.S. 14-  
26 269.1.

27 (a1) After a period of five years from the date of conviction, unconditional  
28 discharge from a correctional institution, or termination of parole, probation, or  
29 suspension of sentence, whichever is later, a person convicted of a felony punishable as  
30 a Class A, B, C, D, E, or F felony may petition the superior court in the jurisdiction in  
31 which the person resides for a permit to purchase, own, possess, or control a firearm,  
32 other than a handgun or other firearm with a barrel length of less than 18 inches or an  
33 overall length of less than 26 inches or a weapon of mass death and destruction. The  
34 presiding judge may, for good cause shown, grant the petition and order the issuance of  
35 a permit.

36 ~~(a2) (Effective until January 1, 1995) In order to comply with the federal Gun~~  
37 ~~Control Act of 1968, as amended, (18 U.S.C. § 922), a person convicted of a felony~~  
38 ~~punishable as a Class G, H, I, or J, felony may, after a period of one year from the date~~  
39 ~~of conviction, unconditional discharge from a correctional institution, or termination of~~  
40 ~~parole, probation, or suspension of sentence, whichever is later, petition the superior~~  
41 ~~court in the jurisdiction in which the person resides for a permit to purchase, own,~~  
42 ~~possess, or control a firearm, other than a handgun or other firearm with a barrel length~~  
43 ~~of less than 18 inches or an overall length of less than 26 inches or a weapon of mass~~

1 ~~death and destruction. The presiding judge may, for good cause shown, grant the~~  
2 ~~petition and order the issuance of a permit.~~

3 (b) Prior convictions which cause disqualification under this section shall include  
4 only:

- 5 (1) ~~Felonies;~~ Felonies punishable as a Class A, B, C, D, E, or F felony; and
- 6 (2) Repealed.
- 7 (3) Violations of criminal laws of other states or of the United States  
8 substantially similar to the crimes covered in subdivision (1) which are  
9 punishable where committed by imprisonment for a term exceeding  
10 two years.

11 When a person is charged under this section, records of prior convictions of any offense,  
12 whether in the courts of this State, or in the courts of any other state or of the United  
13 States, shall be admissible in evidence for the purpose of proving a violation of this  
14 section. The term 'conviction' is defined as a final judgment in any case in which felony  
15 punishment, or imprisonment for a term exceeding two years, as the case may be, is  
16 permissible, without regard to the plea entered or to the sentence imposed. A judgment  
17 of a conviction or a plea of guilty to such an offense certified to a superior court of this  
18 State from the custodian of records of any state or federal court under the same name as  
19 that by which the defendant is charged shall be **prima facie** evidence that the identity of  
20 such person is the same as the defendant so charged and shall be **prima facie** evidence  
21 of the facts so certified.

22 (c) The indictment charging the defendant under the terms of this section shall be  
23 separate from any indictment charging him with other offenses related to or giving rise  
24 to a charge under this section. An indictment which charges the person with violation  
25 of this section must set forth the date that the prior offense was committed, the type of  
26 offense and the penalty therefor, and the date that the defendant was convicted or plead  
27 guilty to such offense, the identity of the court in which the conviction or plea of guilty  
28 took place and the verdict and judgment rendered therein."

29 Sec. 3. Section 1245 of Chapter 539 of the 1993 Session Laws is repealed.

30 Sec. 4. Section 2 of this act becomes effective January 1, 1995, and applies  
31 to offenses committed on or after that date. Section 3 of this act is effective upon  
32 ratification. The remainder of this act becomes effective July 1, 1994, and applies to  
33 offenses committed on or after that date. Prosecutions for, or sentences based on,  
34 offenses occurring before the effective dates of this act are not abated or affected by this  
35 act and the statutes that would be applicable to those prosecutions or sentences but for  
36 those provisions of this act remain applicable to those prosecutions or sentences.