

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

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SENATE BILL 8*

Short Title: Amend Felony Firearms Act.

(Public)

Sponsors: Senators Odom; Plexico, Plyler, Conder, Cochrane, Marshall, Walker, Harris, Johnson, Kaplan, Daniel, Kerr, Cooper, Martin of Guilford, Edwards, Speed, Gunter, Lee, Albertson, Warren, Sands, Seymour, Ward, Parnell, and Lucas.

Referred to: Corrections/Punishment.

February 9, 1994

A BILL TO BE ENTITLED

1 AN ACT TO PROHIBIT THE POSSESSION OF FIREARMS AND WEAPONS OF
2 MASS DEATH AND DESTRUCTION BY FELONS.
3

4 The General Assembly of North Carolina enacts:

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

6 "**§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

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

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

17 Nothing in this subsection would prohibit the right of any person to have possession
18 of a firearm within his own home or on his lawful place of business.

19 Any firearm or weapon of mass death and destruction lawfully seized for a violation
20 of this section shall be forfeited to the State and disposed of as provided in G.S. 14-
21 269.1.

1 (a1) After a period of 10 years from the date of conviction, unconditional
2 discharge from a correctional institution, or termination of parole, probation, or
3 suspension of sentence, whichever is later, a person subject to the provisions of
4 subsection (a) may petition the superior court in the jurisdiction in which the person
5 resides for a permit to purchase, own, possess, or control a firearm, other than a
6 handgun or a weapon of mass death and destruction, at the person's residence. The
7 court may, for good cause shown, grant the petition and issue a permit.

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

- 10 (1) ~~Felonious violations of Articles 3, 4, 6, 7A, 8, 10, 13, 14, 15, 17, 30,~~
11 ~~33, 36, 36A, 52A, or 53 of Chapter 14 of the General Statutes, or of~~
12 ~~Article 5 of Chapter 90 of the General Statutes; Felonies; and~~
13 (2) ~~Common law robbery and common law maim; and~~
14 (3) Violations of criminal laws of other states or of the United States
15 substantially similar to the crimes covered in ~~subdivisions (1) and (2)~~
16 subdivision (1) which are punishable where committed by
17 imprisonment for a term exceeding two years.

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

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

36 Sec. 2. Section 1245 of Chapter 539 of the 1993 Session Laws is repealed.

37 Sec. 3. Section 2 of this act is effective upon ratification. The remainder of
38 this act becomes effective March 1, 1994, and applies to offenses committed on or after
39 that date.