

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 90

Short Title: Concealed Handgun Permit.

(Public)

Sponsors: Representatives Nichols; Aldridge, Allred, Berry, Bowie, Brawley, Buchanan, Cansler, Capps, Carpenter, Clary, Cocklereece, Creech, Culp, Davis, Decker, Dickson, Dockham, Edwards, Ellis, Gardner, Hill, Howard, Hurley, Justus, Kiser, Linney, McComas, McCombs, Mercer, K. Miller, Mitchell, Pate, Preston, Pulley, Rayfield, Reynolds, Robinson, Russell, Sexton, Shubert, Snowden, Thompson, Wainwright, Warner, Weatherly, C. Wilson, and G. Wilson.

Referred to: Judiciary II.

February 1, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A PERSON WHO MEETS SPECIFIED STATUTORY
2 CRITERIA MAY CARRY A CONCEALED HANDGUN IF THE PERSON HAS
3 OBTAINED A CONCEALED HANDGUN PERMIT, TO AUTHORIZE SHERIFFS
4 TO ISSUE CONCEALED HANDGUN PERMITS, TO ESTABLISH THE
5 CRITERIA THAT MUST BE SATISFIED TO RECEIVE THE PERMIT, TO
6 ESTABLISH THE PROCEDURE FOR THE ISSUANCE OF A CONCEALED
7 HANDGUN PERMIT, AND TO MAKE CONFORMING STATUTORY
8 CHANGES.
9

10 The General Assembly of North Carolina enacts:

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

13 **"ARTICLE 54B.**

14 **"CONCEALED HANDGUN PERMIT.**

15 **"§ 14-415.10. Definitions.**

1 The following definitions apply to this Article:

- 2 (1) Carry a concealed handgun. – The term includes possession of a
3 concealed handgun.
4 (2) Handgun. – A firearm that has a short stock and is designed to be held
5 and fired by the use of a single hand.
6 (3) Permit. – A concealed handgun permit issued in accordance with the
7 provisions of this Article.

8 **"§ 14-415.11. Permit to carry concealed handgun; scope of permit.**

9 (a) The sheriff shall issue a permit to carry a concealed handgun to a person who
10 qualifies for a permit under G.S. 14-415.12. A permit shall be valid throughout the State
11 for a period of four years from the date of issuance. Any person in compliance with the
12 terms of the permit may carry a concealed handgun unless otherwise specifically
13 prohibited by law. The permittee shall carry the permit or a copy of the permit, together
14 with valid identification, at all times the permittee is carrying a concealed handgun and
15 shall display both the permit and the proper identification upon the request of a law
16 enforcement officer.

17 (b) A permit does not authorize a person to carry a concealed handgun in the areas
18 prohibited by G.S. 14-269.2, 14-269.3, 14-269.4, and 14-277.2 or in any area prohibited
19 by § 922 of Title 18 of the U.S. Code or any other federal law.

20 (c) A person who is issued a permit shall notify the sheriff who issued the permit
21 of any change in the person's permanent address within 30 days after the change of
22 address.

23 (d) A permit that is lost or destroyed is automatically invalid and the person to
24 whom the permit was issued shall notify the sheriff who issued the permit of the loss or
25 destruction of the permit. A person may obtain a duplicate permit by submitting to the
26 sheriff a notarized statement that the permit was lost or destroyed and paying a fee of
27 fifteen dollars (\$15.00).

28 **"§ 14-415.12. Criteria to qualify for the issuance of a permit.**

29 The sheriff shall issue a permit to an applicant if the applicant qualifies under the
30 following criteria:

- 31 (1) The applicant is a resident of the State and has been a resident for six
32 months or longer immediately preceding the filing of the application.
33 (2) The applicant is 21 years of age or older.
34 (3) The applicant does not suffer from a physical infirmity that prevents the
35 safe handling of a handgun.
36 (4) The applicant is not ineligible to possess a handgun under § 922(g) of
37 Title 18 of the U.S. Code or G.S. 14-415.1.
38 (5) The applicant has not been indicted for or convicted of a felony and
39 does not have proceedings pending for or a conviction of a forcible
40 misdemeanor.
41 (6) The applicant has not been committed to a private, State, or federal
42 facility for the abuse of alcohol or a controlled substance listed in
43 Article 5 of Chapter 90 of the General Statutes within a three-year

1 period immediately preceding the date on which the application is
2 submitted.

3 (7) The applicant does not chronically and habitually use alcoholic
4 beverages to the extent that the applicant's normal faculties are
5 impaired. It shall be presumed that an applicant's normal faculties are
6 impaired if the applicant has been committed to a private, State, or
7 federal facility as an alcoholic within the three-year period immediately
8 preceding the date on which the application is submitted.

9 (8) The applicant has not been adjudicated incompetent under Article 1 of
10 Subchapter 1 of Chapter 35A of the General Statutes, or has waited
11 three years from the date the applicant's competency was restored by the
12 court order under G.S. 35A-1130.

13 (9) The applicant has not been involuntarily committed to a mental
14 institution pursuant to Part 7 of Article 5 of Chapter 122C of the
15 General Statutes, unless the applicant possesses a certificate from a
16 psychiatrist licensed in this State that the applicant has not suffered from
17 disability for a period of three years.

18 (10) The applicant demonstrates proficiency in the use of a handgun as
19 provided in G.S. 14-415.13.

20 **"§ 14-415.13. Demonstration of competence with a handgun required.**

21 (a) An applicant shall demonstrate that the applicant is competent with a handgun
22 by any one of the following:

23 (1) Completion of any hunter education or hunter safety course which
24 involves the actual firing of handguns approved by the Wildlife
25 Resources Commission or a similar agency of another state.

26 (2) Completion of any firearm safety or training course or class which
27 involves the actual firing of handguns available to the general public
28 offered by law enforcement, a junior college, a college, or a private or
29 public institution, organization, or firearms training school, utilizing
30 instructors certified by the National Rifle Association or the State
31 Bureau of Investigation.

32 (3) Completion of any law enforcement firearms safety or training course or
33 class which involves the actual firing of handguns offered for security
34 guards, investigators, special deputies, or any division or subdivision of
35 law enforcement or security enforcement.

36 (4) Experience with a firearm through participation in organized shooting
37 competition or military service.

38 (5) Completion of any firearms training or safety course or class which
39 involves the actual firing of handguns conducted by a State-certified or
40 National Rifle Association-certified firearms instructor.

41 (b) The following shall constitute evidence of qualification under this section:

42 (1) A legible photocopy of a certificate of completion of any of the courses
43 or classes or a notarized affidavit from the instructor, school, club,

1 organization, or group that conducts or taught the course or class
2 attesting to the completion of the course or class by the applicant; or

- 3 (2) A legible photocopy of any document which shows completion of the
4 course or class or evidences participation in organized shooting
5 competition.

6 **"§ 14-415.14. Application for permit.**

7 A person shall apply to the sheriff of the county in which the person resides to obtain
8 a concealed handgun permit. The applicant shall submit to the sheriff all of the
9 following:

- 10 (1) An application, completed under oath, on a form provided by the
11 sheriff's office.
12 (2) A nonrefundable permit fee of twenty dollars (\$20.00).
13 (3) A full set of fingerprints of the applicant administered by a law
14 enforcement agency of this State. The actual cost of processing the set
15 of fingerprints shall be borne by the applicant.
16 (4) A document verifying the applicant's competence with a handgun as
17 described in G.S. 14-415.13(b).

18 **"§ 14-415.15. Issuance or denial of permit.**

19 (a) Within 60 days after receipt of the items listed in G.S. 14-415.14 from an
20 applicant, the sheriff shall either issue or deny the permit. The sheriff may conduct any
21 investigation necessary to determine the qualification or competency of the person
22 applying for the permit, including record checks.

23 (b) A person's application for a permit shall be denied only if the applicant fails to
24 qualify under the criteria listed in this Article. If the sheriff denies the application for a
25 permit, the sheriff shall notify the applicant in writing, stating the grounds for denial.

26 (c) The sheriff shall maintain a listing of those persons who are issued permits and
27 any pertinent information regarding the issued permit, and that information shall be
28 available upon request, at all times to all State law enforcement agencies.

29 **"§ 14-415.16. Renewal of permit.**

30 (a) The holder of a permit shall renew the permit on or before its expiration date
31 by filing with the sheriff of the county in which the person resides a renewal form
32 provided by the sheriff's office, a notarized affidavit stating that the permittee remains
33 qualified under the criteria provided in this Article, and a renewal fee of fifteen dollars
34 (\$15.00). Upon receipt of the completed renewal application and appropriate payment of
35 fees, the sheriff shall renew the permit if the person is qualified.

36 (b) Upon the expiration of a permit, there is a six-month grace period that begins
37 on the expiration date of the permit. A person who fails to renew the permit by the
38 expiration date of the permit may renew the permit as provided under subsection (a) of
39 this section if the person applies for renewal during the six-month grace period and pays
40 a late fee of fifteen dollars (\$15.00) in addition to the renewal fee of fifteen dollars
41 (\$15.00).

1 (c) No permit shall be renewed more than six months after its expiration date. A
2 person whose permit has been expired more than six months may apply for a new permit
3 as provided by this Article.

4 **"§ 14-415.17. Revocation of permit.**

5 A permit shall be revoked if the permittee becomes ineligible to be issued a permit
6 under the criteria set out in G.S. 14-415.12.

7 **"§ 14-415.18. Fees.**

8 All fees under this Article shall be collected by the sheriff's department. The sheriff
9 shall remit one dollar (\$1.00) of each fee received for a new permit to the Department of
10 Revenue to be credited to the General Fund; it is the intent of the General Assembly that
11 these funds be used to support firearm safety and training courses throughout the State.
12 The remaining funds shall be retained by the sheriff's department.

13 **"§ 14-415.19. Application form.**

14 The sheriff shall make available the application form for a permit; the form shall
15 include only the following:

- 16 (1) The name, address, place and date of birth, race, and gender of the
17 applicant.
- 18 (2) A separate listing of the criteria contained in G.S. 14-415.12 and a
19 statement that, to the best of the applicant's knowledge, the applicant is
20 in compliance with those criteria.
- 21 (3) A statement that the applicant has been furnished a copy of this Article
22 and is knowledgeable of its provisions.
- 23 (4) A conspicuous warning that the application is executed under oath and
24 that a materially false answer to any question, or the submission of any
25 materially false document by the applicant, shall subject the applicant to
26 criminal prosecution under G.S. 14-415.20.

27 **"§ 14-415.20. Violations of this Article punishable as a Class 3 misdemeanor.**

28 A person who commits any of the following is guilty of a Class 3 misdemeanor:

- 29 (1) Gives false information to obtain a permit.
- 30 (2) Possesses and uses a permit that has been revoked.
- 31 (3) Fails to have in the person's possession a valid permit whenever actually
32 carrying a concealed handgun.
- 33 (4) Intentionally alters or counterfeits a permit.
- 34 (5) Sells, gives, or transfers a permit to another person.

35 **"§ 14-415.21. Construction of Article.**

36 This Article shall not be construed to require a person who may carry a concealed
37 weapon under the provisions of G.S. 14-269(b) to obtain a concealed handgun permit."

38 Sec. 2. G.S. 14-269 reads as rewritten:

39 **"§ 14-269. Carrying concealed weapons.**

40 (a) It shall be unlawful for any person, ~~except when on his own premises,~~ person
41 willfully and intentionally to carry concealed about his person any bowie knife, dirk,
42 dagger, slung shot, loaded cane, metallic knuckles, razor, shurikin, stun gun, pistol, gun
43 or other deadly weapon of like kind-kind, except in the following circumstances:

- 1 (1) The person is on the person's own premises.
2 (2) The deadly weapon is a handgun and the person has a concealed
3 handgun permit issued in accordance with Article 54B of this Chapter.

4 ~~This section does not apply to an ordinary pocket knife carried in a closed position. As~~
5 ~~used in this section, 'ordinary pocket knife' means a small knife, designed for carrying in~~
6 ~~a pocket or purse, which has its cutting edge and point entirely enclosed by its handle,~~
7 ~~and that may not be opened by a throwing, explosive or spring action.~~

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

- 9 (1) Officers and enlisted personnel of the armed forces of the United States
10 when in discharge of their official duties as such and acting under orders
11 requiring them to carry arms and weapons;
12 (2) Civil officers of the United States while in the discharge of their official
13 duties;
14 (3) Officers and soldiers of the militia and the national guard when called
15 into actual service;
16 (4) Officers of the State, or of any county, city, or town, charged with the
17 execution of the laws of the State, when acting in the discharge of their
18 official duties;
19 (5) Full-time sworn law-enforcement officers, when off-duty, in the
20 jurisdiction where they are assigned, if:
21 a. Written regulations authorizing the carrying of concealed
22 weapons have been filed with the clerk of superior court in the
23 county where the law-enforcement unit is located by the sheriff
24 or chief of police or other superior officer in charge; and
25 b. Such regulations specifically prohibit the carrying of concealed
26 weapons while the officer is consuming or under the influence of
27 alcoholic beverages.

28 (b1) It is a defense to a prosecution under this section that:

- 29 (1) The weapon was not a firearm;
30 (2) The defendant was engaged in, or on the way to or from, an activity in
31 which he legitimately used the weapon;
32 (3) The defendant possessed the weapon for that legitimate use; and
33 (4) The defendant did not use or attempt to use the weapon for an illegal
34 purpose.

35 The burden of proving this defense is on the defendant.

36 (c) Any person violating the provisions of this section shall be guilty of a Class 2
37 misdemeanor.

38 (d) This section does not apply to an ordinary pocket knife carried in a closed
39 position. As used in this section, 'ordinary pocket knife' means a small knife, designed
40 for carrying in a pocket or purse, that has its cutting edge and point entirely enclosed by
41 its handle, and that may not be opened by a throwing, explosive, or spring action."

42 Sec. 3. This act becomes effective December 1, 1995, and applies to offenses
43 committed on or after that date.