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Short Title: Concealed Handgun Permit.

(Public)

Sponsors:

Referred to:

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, TO INCREASE THE PENALTY FOR CARRYING A
8 CONCEALED HANDGUN WITHOUT A PERMIT, AND TO MAKE
9 CONFORMING STATUTORY CHANGES.
10

11 The General Assembly of North Carolina enacts:

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

14 **"ARTICLE 54B.**

15 **"CONCEALED HANDGUN PERMIT.**

1 **"§ 14-415.10. Definitions.**

2 The following definitions apply to this Article:

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

9 **"§ 14-415.11. Permit to carry concealed handgun; scope of permit.**

10 (a) Any person who has a concealed handgun permit may carry a concealed
11 handgun unless otherwise specifically prohibited by law. The person shall carry the
12 permit together with valid identification whenever the person is carrying a concealed
13 handgun, shall disclose to any law enforcement officer that the person holds a valid
14 permit and is carrying a concealed handgun when approached or addressed by the officer,
15 and shall display both the permit and the proper identification upon the request of a law
16 enforcement officer.

17 (b) The sheriff shall issue a permit to carry a concealed handgun to a person who
18 qualifies for a permit under G.S. 14-415.12. The permit shall be valid throughout the
19 State for a period of five years from the date of issuance.

20 (c) A permit does not authorize a person to carry a concealed handgun in the areas
21 prohibited by G.S. 14-269.2, 14-269.3, 14-269.4, and 14-277.2, in any area prohibited by
22 18 U.S.C. § 922 or any other federal law, in a law enforcement or correctional facility, in
23 a building housing only State or federal offices, in an office of the State or federal
24 government that is not located in a building exclusively occupied by the State or federal
25 government, a financial institution, or any other premises where notice that carrying a
26 concealed handgun is prohibited by the posting of a conspicuous notice or statement by
27 the person in legal possession or control of the premises. It shall be unlawful for a
28 person, with or without a permit, to carry a concealed handgun while consuming alcohol
29 or at any time while the person has remaining in his body any alcohol or in his blood a
30 controlled substance previously consumed, but a person does not violate this condition if
31 a controlled substance in his blood was lawfully obtained and taken in therapeutically
32 appropriate amounts.

33 (d) A person who is issued a permit shall notify the sheriff who issued the permit
34 of any change in the person's permanent address within 30 days after the change of
35 address. If a permit is lost or destroyed, the person to whom the permit was issued shall
36 notify the sheriff who issued the permit of the loss or destruction of the permit. A person
37 may obtain a duplicate permit by submitting to the sheriff a notarized statement that the
38 permit was lost or destroyed and paying the required duplicate permit fee.

39 **"§ 14-415.12. Criteria to qualify for the issuance of a permit.**

40 (a) The sheriff shall issue a permit to an applicant if the applicant qualifies under
41 the following criteria:

- 1 (1) The applicant is a citizen of the United States and has been a resident of
2 the State 30 days or longer immediately preceding the filing of the
3 application.
- 4 (2) The applicant is 21 years of age or older.
- 5 (3) The applicant does not suffer from a physical infirmity that prevents the
6 safe handling of a handgun.
- 7 (4) The applicant has successfully completed an approved firearms safety
8 and training course which involves the actual firing of handguns and
9 instruction in the laws of this State governing the carrying of a
10 concealed handgun and the use of deadly force. The North Carolina
11 Criminal Justice Education and Training Standards Commission shall
12 prepare and publish general guidelines for courses and qualifications of
13 instructors which would satisfy the requirements of this subdivision.
14 An approved course shall be any course which satisfies the requirements
15 of this subdivision and is certified or sponsored by:
- 16 a. The North Carolina Criminal Justice Education and Training
17 Standards Commission.
- 18 b. The National Rifle Association, or
- 19 c. A law enforcement agency, college, private or public institution
20 or organization, or firearms training school, taught by instructors
21 certified by the North Carolina Criminal Justice Education and
22 Training Standards Commission or the National Rifle
23 Association.
- 24 Every instructor of an approved course shall file a copy of the firearms
25 course description, outline, and proof of certification annually, or upon
26 modification of the course if more frequently, with the North Carolina
27 Criminal Justice Education and Training Standards Commission.
- 28 (5) The applicant is not disqualified under subsection (b) of this section.
- 29 (b) The sheriff shall deny a permit to an applicant who:
- 30 (1) Is ineligible to own, possess, or receive a firearm under the provisions
31 of State or federal law.
- 32 (2) Has formal charges pending for a crime punishable by imprisonment for
33 a term exceeding one year.
- 34 (3) Has been adjudicated guilty in any court of a crime punishable by
35 imprisonment for a term exceeding one year.
- 36 (4) Is a fugitive from justice.
- 37 (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any
38 depressant, stimulant, or narcotic drug, or any other controlled
39 substance as defined in 21 U.S.C. § 802.
- 40 (6) Is currently or has been previously adjudicated as follows:
- 41 a. Lacking mental capacity.
- 42 b. Mentally ill.
- 43 c. Gravely disabled.

1 d. An incapacitated person.

2 (7) Is or has been discharged from the armed forces under conditions other
3 than honorable.

4 (8) Is or has been adjudicated guilty of or received a prayer for judgment
5 continued or suspended sentence for one or more crimes of violence
6 constituting a misdemeanor, including but not limited to, a violation of a
7 misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a
8 violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1,
9 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1,
10 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2),
11 14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2, or 14-
12 415.19(a), unless five years has elapsed since disposition or pardon has
13 occurred prior to the date on which the application is submitted.

14 (9) Has had entry of a prayer for judgment continued for a criminal offense
15 which would disqualify the person from obtaining a concealed handgun
16 permit.

17 (10) Is free on bond or personal recognizance pending trial, appeal, or
18 sentencing for a crime which would disqualify him from obtaining a
19 concealed handgun permit.

20 (11) Has been convicted of an impaired driving offense under G.S. 20-138.1,
21 20-138.2, or 20-138.3 within three years prior to the date on which the
22 application is submitted.

23 **"§ 14-415.13. Application for a permit; fingerprints.**

24 (a) A person shall apply to the sheriff of the county in which the person resides to
25 obtain a concealed handgun permit. The applicant shall submit to the sheriff all of the
26 following:

27 (1) An application, completed under oath, on a form provided by the
28 sheriff.

29 (2) A nonrefundable permit fee.

30 (3) A full set of fingerprints of the applicant administered by a law
31 enforcement agency of this State.

32 (4) An original certificate of completion of an approved course, adopted
33 and distributed by the North Carolina Criminal Justice Education and
34 Training Standards Commission, signed by the certified instructor of the
35 course attesting to the successful completion of the course by the
36 applicant which shall verify that the applicant is competent with a
37 handgun and knowledgeable about the laws governing the carrying of a
38 concealed handgun and the use of deadly force.

39 (5) A release, in a form to be prescribed by the Administrative Office of the
40 Courts, that authorizes and requires disclosure to the sheriff of any
41 records concerning the mental health or capacity of the applicant.

42 (b) The sheriff shall submit the fingerprints to the State Bureau of Investigation for
43 a records check of State and national databases. The State Bureau of Investigation shall

1 submit the fingerprints to the Federal Bureau of Investigation as necessary. The cost of
2 processing the set of fingerprints shall be charged to an applicant as provided by G.S. 14-
3 415.19. The fingerprints of an applicant who is issued a permit shall be retained for
4 future use in the event the permit is renewed, and shall be retained until any valid permit
5 expires and is not renewed.

6 **"§ 14-415.14. Application form to be provided by sheriff; information to be**
7 **included in application form.**

8 (a) The sheriff shall make permit applications readily available at the office of the
9 sheriff or at other public offices in the sheriff's jurisdiction. The permit application shall
10 be in triplicate, in a form to be prescribed by the Administrative Office of the Courts, and
11 shall include the following information with regard to the applicant: name, address,
12 physical description, signature, date of birth, social security number, military status, and
13 the drivers license number or State identification card number of the applicant if used for
14 identification in applying for the permit.

15 (b) The permit application shall also contain a warning substantially as follows:

16 'CAUTION: Federal law and State law on the possession of handguns and firearms
17 differ. If you are prohibited by federal law from possessing a handgun or a firearm, you
18 may be prosecuted in federal court. A State permit is not a defense to a federal
19 prosecution.'

20 **"§ 14-415.15. Issuance or denial of permit.**

21 (a) Except as permitted under subsection (b) of this section, within 90 days after
22 receipt of the items listed in G.S. 14-415.13 from an applicant, the sheriff shall either
23 issue or deny the permit. The sheriff may conduct any investigation necessary to
24 determine the qualification or competency of the person applying for the permit,
25 including record checks.

26 (b) Upon presentment to the sheriff of the items required under G.S. 14-
27 415.13(a)(1), (2), and (3), the sheriff may issue a temporary permit for a period not to
28 exceed 90 days to a person who the sheriff reasonably believes is in an emergency
29 situation that may constitute a risk of safety to the person, the person's family or property.
30 The temporary permit may not be renewed and may be revoked by the sheriff without a
31 hearing.

32 (c) A person's application for a permit shall be denied only if the applicant fails to
33 qualify under the criteria listed in this Article. If the sheriff denies the application for a
34 permit, the sheriff shall, within 90 days, notify the applicant in writing, stating the
35 grounds for denial. An applicant may appeal the denial, revocation, or nonrenewal of a
36 permit by petitioning a district court judge of the district in which the application was
37 filed. The determination by the court, on appeal, shall be upon the facts, the law, and the
38 reasonableness of the sheriff's refusal. The determination by the court shall be final.

39 **"§ 14-415.16. Renewal of permit.**

40 The holder of a permit shall apply to renew the permit at least 30 days prior to its
41 expiration date by filing with the sheriff of the county in which the person resides a
42 renewal form provided by the sheriff's office, a notarized affidavit stating that the
43 permittee remains qualified under the criteria provided in this Article, and a renewal fee.

1 Upon receipt of the completed renewal application and appropriate payment of fees, the
2 sheriff shall determine if the permittee remains qualified to hold a permit in accordance
3 with the provisions of G.S. 14-415.12. The permittee's criminal history shall be updated,
4 and the sheriff may waive the requirement of taking another firearms safety and training
5 course. If the permittee applies for a renewal of the permit within 30 days of its
6 expiration date and if the permittee remains qualified to have a permit under G.S. 14-
7 415.12, the sheriff shall renew the permit.

8 **"§ 14-415.17. Permit; sheriff to retain and make available to law enforcement**
9 **agencies a list of permittees.**

10 The permit shall be in a certificate form, as prescribed by the Administrative Office of
11 the Courts, that is approximately the size of a North Carolina drivers license. It shall bear
12 the signature, name, address, date of birth, and social security number of the permittee,
13 and the drivers license identification number used in applying for the permit. The sheriff
14 shall maintain a listing of those persons who are issued a permit and any pertinent
15 information regarding the issued permit. The permit information shall be available upon
16 request to all State and local law enforcement agencies.

17 Within five days of the date a permit is issued, the sheriff shall send a copy of the
18 permit to the State Bureau of Investigation. The State Bureau of Investigation shall make
19 this information available to law enforcement officers and clerks of court on a statewide
20 system.

21 **"§ 14-415.18. Revocation or suspension of permit.**

22 (a) The sheriff of the county where the permit was issued or the sheriff of the
23 county where the person resides may revoke a permit subsequent to a hearing for any of
24 the following reasons:

- 25 (1) Fraud or intentional or material misrepresentation in the obtaining of a
26 permit.
27 (2) Misuse of a permit, including lending or giving a permit to another
28 person, duplicating a permit, or using a permit with the intent to
29 unlawfully cause harm to a person or property.
30 (3) The doing of an act or existence of a condition which would have been
31 grounds for the denial of the permit by the sheriff.
32 (4) The violation of any of the terms of this Article.
33 (5) The applicant is adjudicated guilty of or receives a prayer for judgment
34 continued for a crime which would have disqualified the applicant from
35 initially receiving a permit.

36 (b) The court may suspend a permit as part of and for the duration of any orders
37 permitted under Chapter 50B of the General Statutes.

38 **"§ 14-415.19. Fees.**

39 (a) The permit fees assessed under this Article are payable to the sheriff. The
40 sheriff shall transmit the proceeds of these fees to the county finance officer to be used to
41 pay the costs of the criminal record checks and investigations required under this Article.
42 The permit fees are as follows:

43 Application fee\$50.00

1 Renewal fee\$50.00

2 Duplicate permit fee\$15.00

3 (b) An additional fee, not to exceed ten dollars (\$10.00), shall be collected from an
4 applicant for a permit to pay for the costs of processing the applicant's fingerprints. This
5 fee shall be retained by the law enforcement office that processes the fingerprints.

6 **"§ 14-415.20. No liability of sheriff.**

7 A sheriff who issues or refuses to issue a permit to carry a concealed handgun under
8 this Article shall not incur any civil or criminal liability as the result of the performance
9 of the sheriff's duties under this Article.

10 **"§ 14-415.21. Violations of this Article punishable as an infraction and a Class 2**
11 **misdemeanor.**

12 (a) A person who has been issued a valid permit who is found to be carrying a
13 concealed handgun without the permit in the person's possession or who fails to disclose
14 to any law enforcement officer that the person holds a valid permit and is carrying a
15 concealed handgun, as required by G.S. 14-415.11, shall be guilty of an infraction for the
16 first offense and shall be punished in accordance with G.S. 14-3.1. In lieu of paying a
17 fine for the first offense, the person may surrender the permit. Subsequent offenses for
18 failing to carry a valid permit or for failing to make the necessary disclosures to a law
19 enforcement officer as required by G.S. 14-415.11 shall be punished in accordance with
20 subsection (b) of this section.

21 (b) A person who violates the provisions of this Article other than as set forth in
22 subsection (a) of this section is guilty of a Class 2 misdemeanor.

23 **"§ 14-415.22. Construction of Article.**

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

26 **"§ 14-415.23. Statewide uniformity.**

27 It is the intent of the General Assembly to prescribe a uniform system for the
28 regulation of legally carrying a concealed handgun. To insure uniformity, no political
29 subdivisions, boards, or agencies of the State nor any county, city, municipality,
30 municipal corporation, town, township, village, nor any department or agency thereof,
31 may enact ordinances, rules, or regulations concerning legally carrying a concealed
32 handgun. A unit of local government may adopt an ordinance to permit the posting of a
33 prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.11(c),
34 on local government buildings, their appurtenant premises, and parks."

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

36 **"§ 14-269. Carrying concealed weapons.**

37 (a) It shall be unlawful for any person, ~~except when on his own premises,~~ person
38 willfully and intentionally to carry concealed about his person any bowie knife, dirk,
39 dagger, slung shot, loaded cane, metallic knuckles, razor, shurikin, stun gun, ~~pistol, gun~~
40 or other deadly weapon of like kind. ~~kind,~~ except when the person is on the person's own
41 premises. ~~This section does not apply to an ordinary pocket knife carried in a closed position.~~
42 As used in this section, 'ordinary pocket knife' means a small knife, designed for carrying in a

1 ~~pocket or purse, which has its cutting edge and point entirely enclosed by its handle, and that~~
2 ~~may not be opened by a throwing, explosive or spring action.~~

3 (a1) It shall be unlawful for any person willfully and intentionally to carry
4 concealed about his person any pistol or gun except in the following circumstances:

5 (1) The person is on the person's own premises.

6 (2) The deadly weapon is a handgun, and the person has a concealed
7 handgun permit issued in accordance with Article 54B of this Chapter.

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~~ Sworn law-enforcement officers, when ~~off-duty, in the~~
20 ~~jurisdiction where they are assigned, off-duty, if:~~

21 a. Written regulations authorizing the carrying of concealed
22 weapons have been filed with the clerk of court in the county
23 where the law-enforcement unit is located by the sheriff or chief
24 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~~ subsection (a) of this section
37 shall be guilty of a Class 2 misdemeanor. Any person violating the provisions of
38 subsection (a1) of this section shall be guilty of a Class 2 misdemeanor for the first
39 offense. A second or subsequent offense is punishable as a Class I felony.

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

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