

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**SENATE BILL 680
Judiciary II Committee Substitute Adopted 4/25/01**

Short Title: Lawful Firearm Activities Protected.

(Public)

Sponsors:

Referred to:

March 26, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE THAT ONLY THE STATE MAY BRING CERTAIN CIVIL
3 ACTIONS AGAINST FIREARMS OR AMMUNITION MARKETERS,
4 MANUFACTURERS, DISTRIBUTORS, DEALERS, SELLERS, OR TRADE
5 ASSOCIATIONS AND TO AMEND THE LAWS REGARDING GUN SHOWS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 14-409.40 reads as rewritten:

8 "**§ 14-409.40. Statewide uniformity of local regulation.**

9 (a) It is declared by the General Assembly that the regulation of firearms is
10 properly an issue of general, statewide concern, and that the entire field of regulation of
11 firearms is preempted from regulation by local governments except as provided by this
12 section.

13 (b) Unless otherwise permitted by statute, no county or municipality, by
14 ordinance, resolution, or other enactment, shall regulate in any manner the possession,
15 ownership, storage, transfer, sale, purchase, licensing, or registration of firearms,
16 firearms ammunition, components of firearms, dealers in firearms, or dealers in
17 handgun components or parts.

18 (c) Notwithstanding subsection (b) of this section, a county or municipality, by
19 zoning or other ordinance, may regulate or prohibit the sale of firearms at a location
20 only if there is a lawful, general, similar regulation or prohibition of commercial
21 activities at that location. Nothing in this subsection shall restrict the right of a county or
22 municipality to adopt a general zoning plan that prohibits any commercial activity
23 within a fixed distance of a school or other educational institution except with a special
24 use permit issued for a commercial activity found not to pose a danger to the health,
25 safety, or general welfare of persons attending the school or educational institution
26 within the fixed distance.

27 (d) No county or municipality, by zoning or other ordinance, shall regulate in any
28 manner firearms shows with regulations more stringent than those applying to shows of
29 other types of items.

1 (e) A county or municipality may regulate the transport, carrying, or possession
2 of firearms by employees of the local unit of government in the course of their
3 employment with that local unit of government.

4 (f) Nothing contained in this section prohibits municipalities or counties from
5 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2,
6 14-269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the
7 possession of firearms in public-owned buildings, on the grounds or parking areas of
8 those buildings, or in public parks or recreation areas, except nothing in this subsection
9 shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is
10 on these grounds or areas. Nothing contained in this section prohibits municipalities or
11 counties from exercising powers provided by law in declared states of emergency under
12 Article 36A of this Chapter.

13 (g) The authority to bring suit and the right to recover against any firearms or
14 ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or
15 on behalf of any governmental unit, created by or pursuant to an act of the General
16 Assembly or the Constitution, or any department, agency, or authority thereof, for
17 damages, abatement, injunctive relief, or any other remedy resulting from or relating to
18 the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or
19 ammunition to the public is reserved exclusively to the State. Furthermore, any action
20 against any firearms or ammunition marketer, manufacturer, distributor, dealer, seller,
21 or trade association representing or promoting any such marketer, manufacturer,
22 distributor, dealer, or seller shall be brought by the Attorney General. This section shall
23 not prohibit a political subdivision or local governmental unit from bringing an action
24 against any firearms or ammunition marketer, manufacturer, distributor, dealer, seller,
25 or trade association for breach of contract or warranty for defect of materials or
26 workmanship as to firearms or ammunition purchased by the political subdivision or
27 local governmental unit."

28 **SECTION 2.** Chapter 14 of the General Statutes is amended by adding a
29 new Article to read:

30 "Article 54C.

31 "Gun Shows.

32 **"§ 14-415.30. Definitions.**

33 The following definitions apply in this Article:

34 (1) Firearm. – The term 'firearm' means: (i) a weapon, by whatever name
35 known, that is designed to expel a projectile by the action of powder
36 and that is readily capable of use as a weapon; (ii) the frame or
37 receiver of any such weapon; or (iii) any firearm muffler or firearm
38 silencer.

39 (2) Gun show. – Any event: (i) at which 25 or more firearms or other
40 weapons as defined in G.S. 14-269(a) are offered or exhibited for sale,
41 transfer, or exchange; and (ii) at which two or more persons are
42 offering or exhibiting firearms for sale, transfer, or exchange. The term

1 'gun show' includes, but is not limited to, any area near the location of
2 the gun show that is used for parking for the gun show.

3 (3) Gun show promoter. – A person who organizes, promotes, or
4 otherwise sponsors a gun show. The term 'gun show promoter' also
5 included the employees of the promoter.

6 (4) Vendor – A person who exhibits a firearm for sale, transfer, or
7 exchange at a gun show.

8 **"§ 14-415.31. Gun shows; registration; promoter must apply for permit with**
9 **sheriff; inspection of books and records.**

10 (a) No person shall organize, promote, or otherwise sponsor a gun show in any
11 county unless the person has first obtained a permit as a gun show promoter from the
12 sheriff of that county. One permit shall be required for each gun show and the permit
13 expires at the conclusion of the gun show for which it was obtained.

14 (b) Upon application, the sheriff shall determine whether the applicant satisfies
15 the criteria set out in G.S. 14-404. If the sheriff is satisfied that the person does qualify
16 for a permit under G.S. 14-404, the sheriff shall issue a gun show promoter permit to the
17 person. At the time the gun show promoter permit application is submitted to the sheriff,
18 the applicant shall also submit a fee of one hundred dollars (\$100.00). The sheriff shall
19 transmit this fee to the county finance officer. The amount of this fee shall be used by
20 the sheriff to pay the costs of administering this Article and for other law enforcement
21 purposes. The county shall expend the restricted funds for these purposes only and these
22 funds shall not be used to supplant other funds available to the sheriff.

23 (c) Notwithstanding G.S. 14-404, a person does not have to be a resident of the
24 county in which the person applies for a permit as a gun show promoter.

25 **"§ 14-415.32. Gun show promoter; duties.**

26 At least 30 days before the date of the gun show, the gun show promoter shall file an
27 application with the sheriff and notify the sheriff of the time and location of the gun
28 show. If a gun show promoter fails to satisfy the requirement of this section, the sheriff
29 may revoke the permit for the gun show.

30 **"§ 14-415.33. Display and sale of firearms at gun show.**

31 (a) A person may display a firearm for sale while at a gun show without
32 complying with subsection (b) of this section. However, a person who displays a
33 firearm for sale under this subsection may not sell, lease, or otherwise transfer a firearm
34 unless the transaction is conducted through a person licensed as a dealer under 18
35 U.S.C. § 923.

36 (b) Except as otherwise provided by this section, a person who, while at a gun
37 show, displays a firearm for purposes of sale or sells, leases, or otherwise transfers a
38 firearm to another person must be licensed as a dealer under 18 U.S.C. § 923 and must
39 post the license in accordance with 27 C.F.R. 178.91 and 178.100(a). Each licensed
40 dealer shall also obtain and display a sales tax certificate of registration as provided by
41 G.S. 14-415.34. A transfer of a handgun must comply with Article 52A of this Chapter.

1 (c) This section shall not apply to the sale of antique firearms as defined in G.S.
2 14-409.11 and historic-edged weapons as defined in G.S. 14-409.12.

3 **"§ 14-415.34. Vendor sales tax filing.**

4 Each vendor shall obtain a sales tax certificate of registration as required by G.S.
5 105-164.4(c). Notwithstanding the provisions of G.S. 105-164.16, at the conclusion of a
6 gun show, each vendor must file a sales tax return and pay the tax under Article 5 of
7 Chapter 105 of the General Statutes within 10 days after the end of the semimonthly
8 period during which the show concluded as if the vendor were required to report on a
9 semimonthly basis under G.S. 105-164.16.

10 **"§ 14-415.35. Violation punishable as a misdemeanor.**

11 (a) A violation of this Article is a Class 1 misdemeanor.

12 (b) It is an affirmative defense for a gun show promoter under this section that
13 both of the following conditions are met:

14 (1) The gun show promoter made a good faith effort to ensure that persons
15 displaying, selling, leasing, or otherwise transferring firearms
16 complied with the requirements of this Article; and

17 (2) The display, sale, lease, or transfer by a noncomplying person occurred
18 in an area of the gun show other than the primary area sued for
19 displaying, selling, leasing, or otherwise transferring firearms."

20 **SECTION 3.** The provisions of this act are severable. If any provision of
21 this act is held invalid by a court of competent jurisdiction, the invalidity does not affect
22 other provisions of the act that can be given effect without the invalid provision.

23 **SECTION 4.** Section 1 of this act is effective when it becomes law and
24 applies to any action pending or filed on or after that date. Section 2 of this act becomes
25 effective December 1, 2001, and applies to guns shows occurring on or after that date.
26 Sections 3 and 4 of this act are effective when they become law.