

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 8*

Select Committee on Corrections/Punishment Committee Substitute Adopted 2/24/94

Short Title: Amend Felony Firearms Act.

(Public)

Sponsors:

Referred to: Appropriations.

February 9, 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.

Nothing in this subsection would prohibit the right of any person to have possession of a ~~firearm~~ firearm, other than a 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, within ~~his~~ the person's own home or on ~~his~~ the person's lawful place of business.

1 Any firearm or weapon of mass death and destruction lawfully seized for a violation
2 of this section shall be forfeited to the State and disposed of as provided in G.S. 14-
3 269.1.

4 (a1) After a period of five years from the date of conviction, unconditional
5 discharge from a correctional institution, or termination of parole, probation, or
6 suspension of sentence, whichever is later, a person convicted of a felony punishable as
7 a Class A, B, C, D, or E felony may petition the superior court in the jurisdiction in
8 which the person resides for a permit to purchase, own, possess, or control a firearm,
9 other than a handgun or a weapon of mass death and destruction. The presiding judge
10 may, for good cause shown, grant the petition and issue a permit.

11 (a2) After a period of one year from the date of conviction, unconditional
12 discharge from a correctional institution, or termination of parole, probation, or
13 suspension of sentence, whichever is later, a person convicted of a felony punishable as
14 a Class F, G, H, I, or J felony may petition the superior court in the jurisdiction in
15 which the person resides for a permit to purchase, own, possess, or control a firearm,
16 other than a handgun or a weapon of mass death and destruction. The presiding judge
17 may, for good cause shown, grant the petition and issue a permit.

18 (b) Prior convictions which cause disentitlement under this section shall ~~only~~
19 ~~include:~~include only:

20 (1) ~~Felonious violations of Articles 3, 4, 6, 7A, 8, 10, 13, 14, 15, 17, 30,~~
21 ~~33, 36, 36A, 52A, or 53 of Chapter 14 of the General Statutes, or of~~
22 ~~Article 5 of Chapter 90 of the General Statutes; Felonies; and~~

23 ~~(2) Common law robbery and common law maim; and~~

24 (3) Violations of criminal laws of other states or of the United States
25 substantially similar to the crimes covered in ~~subdivisions (1) and (2)~~
26 subdivision (1) which are punishable where committed by
27 imprisonment for a term exceeding two years.

28 When a person is charged under this section, records of prior convictions of any offense,
29 whether in the courts of this State, or in the courts of any other state or of the United
30 States, shall be admissible in evidence for the purpose of proving a violation of this
31 section. The term 'conviction' is defined as a final judgment in any case in which felony
32 punishment, or imprisonment for a term exceeding two years, as the case may be, is
33 permissible, without regard to the plea entered or to the sentence imposed. A judgment
34 of a conviction or a plea of guilty to such an offense certified to a superior court of this
35 State from the custodian of records of any state or federal court under the same name as
36 that by which the defendant is charged shall be **prima facie** evidence that the identity of
37 such person is the same as the defendant so charged and shall be **prima facie** evidence
38 of the facts so certified.

39 (c) The indictment charging the defendant under the terms of this section shall be
40 separate from any indictment charging him with other offenses related to or giving rise
41 to a charge under this section. An indictment which charges the person with violation
42 of this section must set forth the date that the prior offense was committed, the type of
43 offense and the penalty therefor, and the date that the defendant was convicted or plead

1 guilty to such offense, the identity of the court in which the conviction or plea of guilty
2 took place and the verdict and judgment rendered therein."

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

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