

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
Appropriations Committee Substitute No. 2 Adopted 3/2/94

Short Title: Amend Felony Firearms Act.

(Public)

Sponsors:

Referred to:

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, E, or F 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 other firearm with a barrel length of less than 18 inches or an
10 overall length of less than 26 inches or a weapon of mass death and destruction. The
11 presiding judge may, for good cause shown, grant the petition and issue a permit.

12 (a2) (Effective until January 1, 1995) In order to comply with the federal Gun
13 Control Act of 1968, as amended, 18 U.S.C. § 922, a person convicted of a felony
14 punishable as a Class G, H, I, or J felony may, after a period of one year from the date
15 of conviction, unconditional discharge from a correctional institution, or termination of
16 parole, probation, or suspension of sentence, whichever is later, petition the superior
17 court in the jurisdiction in which the person resides for a permit to purchase, own,
18 possess, or control a firearm, other than a handgun or other firearm with a barrel length
19 of less than 18 inches or an overall length of less than 26 inches or a weapon of mass
20 death and destruction. The presiding judge may, for good cause shown, grant the
21 petition and issue a permit.

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

- 24 (1) ~~Felonious violations of Articles 3, 4, 6, 7A, 8, 10, 13, 14, 15, 17, 30,~~
25 ~~33, 36, 36A, 52A, or 53 of Chapter 14 of the General Statutes, or of~~
26 ~~Article 5 of Chapter 90 of the General Statutes; Felonies; and~~
27 (2) ~~Common law robbery and common law maim; and~~
28 (3) Violations of criminal laws of other states or of the United States
29 substantially similar to the crimes covered in ~~subdivisions (1) and (2)~~
30 subdivision (1) which are punishable where committed by
31 imprisonment for a term exceeding two years.

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

43 (c) The indictment charging the defendant under the terms of this section shall be
44 separate from any indictment charging him with other offenses related to or giving rise

1 to a charge under this section. An indictment which charges the person with violation
2 of this section must set forth the date that the prior offense was committed, the type of
3 offense and the penalty therefor, and the date that the defendant was convicted or plead
4 guilty to such offense, the identity of the court in which the conviction or plea of guilty
5 took place and the verdict and judgment rendered therein."

6 Sec. 2. G.S. 14-415.1, as amended by this act, reads as rewritten:

7 **"§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

8 (a) Except as provided in ~~subsections (a1) and (a2),~~ subsection (a1), it is unlawful
9 for any person who has been convicted of ~~any~~ a Class A, B, C, D, E, or F felony to
10 purchase, own, possess, or have in the person's custody, care, or control any handgun or
11 other firearm with a barrel length of less than 18 inches or an overall length of less than
12 26 inches, or any weapon of mass death and destruction as defined in G.S. 14-288.8(c).

13 Every person violating the provisions of this section is a Class H felon.

14 Nothing in this subsection would prohibit the right of any person to have possession
15 of a firearm, other than a handgun or other firearm with a barrel length of less than 18
16 inches or an overall length of less than 26 inches or any weapon of mass death and
17 destruction, within the person's own home or on the person's lawful place of business.

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

21 (a1) After a period of five years from the date of conviction, unconditional
22 discharge from a correctional institution, or termination of parole, probation, or
23 suspension of sentence, whichever is later, a person convicted of a felony punishable as
24 a Class A, B, C, D, E, or F felony may petition the superior court in the jurisdiction in
25 which the person resides for a permit to purchase, own, possess, or control a firearm,
26 other than a handgun or other firearm with a barrel length of less than 18 inches or an
27 overall length of less than 26 inches or a weapon of mass death and destruction. The
28 presiding judge may, for good cause shown, grant the petition and issue a permit.

29 ~~(a2) (Effective until January 1, 1995) In order to comply with the federal Gun
30 Control Act of 1968, as amended, (18 U.S.C. § 922), a person convicted of a felony
31 punishable as a Class G, H, I, or J, felony may, after a period of one year from the date
32 of conviction, unconditional discharge from a correctional institution, or termination of
33 parole, probation, or suspension of sentence, whichever is later, petition the superior
34 court in the jurisdiction in which the person resides for a permit to purchase, own,
35 possess, or control a firearm, other than a handgun or other firearm with a barrel length
36 of less than 18 inches or an overall length of less than 26 inches or a weapon of mass
37 death and destruction. The presiding judge may, for good cause shown, grant the
38 petition and issue a permit.~~

39 (b) Prior convictions which cause disqualification under this section shall include
40 only:

- 41 (1) ~~Felonies;~~ Felonies punishable as a Class A, B, C, D, E, or F felony; and
- 42 (2) Repealed.
- 43 (3) Violations of criminal laws of other states or of the United States
44 substantially similar to the crimes covered in subdivision (1) which are

1 punishable where committed by imprisonment for a term exceeding
2 two years.

3 When a person is charged under this section, records of prior convictions of any offense,
4 whether in the courts of this State, or in the courts of any other state or of the United
5 States, shall be admissible in evidence for the purpose of proving a violation of this
6 section. The term 'conviction' is defined as a final judgment in any case in which felony
7 punishment, or imprisonment for a term exceeding two years, as the case may be, is
8 permissible, without regard to the plea entered or to the sentence imposed. A judgment
9 of a conviction or a plea of guilty to such an offense certified to a superior court of this
10 State from the custodian of records of any state or federal court under the same name as
11 that by which the defendant is charged shall be **prima facie** evidence that the identity of
12 such person is the same as the defendant so charged and shall be **prima facie** evidence
13 of the facts so certified.

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

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

22 Sec. 4. Section 2 of this act becomes effective January 1, 1995, and applies
23 to offenses committed on or after that date. Section 3 of this act is effective upon
24 ratification. The remainder of this act becomes effective July 1, 1994, and applies to
25 offenses committed on or after that date. Prosecutions for, or sentences based on,
26 offenses occurring before the effective dates of this act are not abated or affected by this
27 act and the statutes that would be applicable to those prosecutions or sentences but for
28 those provisions of this act remain applicable to those prosecutions or sentences.