

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 588

Short Title: Omnibus Gun Changes. (Public)

Sponsors: Representatives Speciale, Pittman, and Millis (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

April 6, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE MULTIPLE CHANGES TO THE STATE LAWS REGARDING
3 FIREARMS.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. PISTOL PERMIT/MENTAL HEALTH RECORD TO SHERIFF**

7 **SECTION 1.1.** G.S. 14-404 reads as rewritten:

8 "**§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal;**
9 **sheriff's fee.**

10 ...

11 (e1) The application for a permit shall be on a form created by the State Bureau of
12 Investigation in consultation with the North Carolina Sheriffs' Association. This application
13 shall be used by all sheriffs and must be provided by the sheriff both electronically and in paper
14 form. Only the following shall be required to be submitted by an applicant for a permit:

- 15 (1) The permit application developed pursuant to this subsection.
16 (2) Five dollars for each permit requested pursuant to subsection (e) of this
17 section.
18 (3) A government issued identification confirming the identity of the applicant.
19 (4) Proof of residency.
20 (5) ~~A signed release, in a form to be prescribed by the Administrative Office of~~
21 ~~the Court, that authorizes and requires disclosure to the sheriff of any court~~
22 ~~orders concerning the mental health or capacity of the applicant to be used~~
23 ~~for the sole purpose of determining whether the applicant is disqualified to~~
24 ~~receive a permit pursuant to this section.~~

25 ~~No additional document or evidence shall be required from any applicant.~~

26 (e2) The sheriff may, in the sheriff's discretion, request disclosure to the sheriff of any
27 court orders concerning the mental health or mental capacity of the applicant to be used for the
28 sole purpose of determining whether the applicant is disqualified to receive a permit pursuant to
29 this section.

30 ...

31 (i) ~~A person or entity shall promptly disclose to the sheriff, upon presentation by the~~
32 ~~applicant or sheriff of an original or photocopied release form described in subdivision (5) of~~
33 ~~subsection (e1) of this section, any court orders concerning the mental health or capacity of the~~
34 ~~applicant who signed the release form."~~

35 **SECTION 1.2.** G.S. 122C-54 reads as rewritten:



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1 "§ 122C-54. Exceptions; abuse reports and court proceedings.

2 ...
3 ~~(d2) The record of involuntary commitment for inpatient or outpatient mental health~~
4 ~~treatment or for substance abuse treatment required to be reported to the National Instant~~
5 ~~Criminal Background Check System (NICS) by G.S. 14-409.43 shall be accessible only by the~~
6 ~~sheriff or the sheriff's designee for the purposes of conducting background checks under G.S.~~
7 ~~14-404 and shall remain otherwise confidential as provided by this Article.~~

8 (d3) Notwithstanding G.S. 122C-207 and subsection (d) of this section, when a sheriff
9 notifies the potential holder of a mental health order in writing that a particular individual has
10 completed an application for a pistol purchase permit, the holder of any court orders that
11 concern the mental health or mental capacity of an applicant for a pistol purchase permit shall,
12 upon request, release to the sheriff of the county any and all mental health orders concerning
13 the pistol purchase permit applicant.

14"

15 **SECTION 1.3.** This Part becomes effective August 1, 2017, and applies to
16 applications for pistol purchases pending or submitted on or after that date.

17
18 **PART II. CONCEALED CARRY/CHURCH SCHOOL PROPERTY**

19 **SECTION 2.1.** G.S. 14-269.2 is amended by adding a new subsection to read:

20 "(m) Notwithstanding subsection (b) of this section, if educational property is the location
21 of both a school and a building that is a place of religious worship as defined in G.S. 14-54.1,
22 then a person who has a concealed handgun permit issued in accordance with Article 54B of
23 Chapter 14 of the General Statutes or considered valid under G.S. 14-415.24, or is exempt from
24 obtaining a permit pursuant to G.S. 14-415.25, may possess and carry a handgun on the
25 premises of the place of religious worship and any associated parking lot outside the operating
26 hours of the school."

27 **SECTION 2.2.** G.S. 14-415.11(c) reads as rewritten:

28 "(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry
29 a concealed handgun in any of the following:

30 (1) ~~Areas prohibited by G.S. 14-269.2, 14-269.3, and 14-277.2.~~ G.S. 14-269.3
31 and G.S. 14-277.2.

32 (1a) Areas prohibited by G.S. 14-269.2, except as allowed under
33 G.S. 14-269.2(m).

34"

35 **SECTION 2.3.** This Part becomes effective December 1, 2017.

36
37 **PART III. ALLOW CONCEALED CARRY ON UNC AND COMMUNITY COLLEGE**
38 **CAMPUSES**

39 **SECTION 3.1.** G.S. 14-269.2, as amended by Section 2.1 of this act, is amended
40 by adding a new subsection to read:

41 "(n) Notwithstanding any other provision of this section, a person who has a concealed
42 handgun permit issued in accordance with Article 54B of this Chapter, has a concealed
43 handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit
44 pursuant to G.S. 14-415.25 may carry a concealed handgun on educational property if the
45 educational property is an institution of higher education as defined in G.S. 116-143.1."

46 **SECTION 3.2.** G.S. 14-415.11(c), as amended by Section 2.2 of this act, reads as
47 rewritten:

48 "(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry
49 a concealed handgun in any of the following:

50 (1) Areas prohibited by G.S. 14-269.3 and G.S. 14-277.2.

1 (1a) Areas prohibited by G.S. 14-269.2, except as allowed under
2 ~~G.S. 14-269.2(m)~~:G.S. 14-269.2(m) and (n).

3"

4 **SECTION 3.3.** This Part becomes effective December 1, 2017. Prosecutions for
5 offenses committed before the effective date of this Part are not abated or affected by this Part,
6 and the statutes that would be applicable but for this Part remain applicable to those
7 prosecutions.

9 PART IV. VARIOUS FIREARM CHANGES

10 **SECTION 4.1.** G.S. 14-269.2(a)(1) reads as rewritten:

11 "**§ 14-269.2. Weapons on campus or other educational property.**

12 (a) The following definitions apply to this section:

13 (1) Educational property. – Any school building or bus, school campus,
14 grounds, recreational area, athletic field, or other property owned, used, or
15 operated by any board of education or school board of trustees, or directors
16 for the administration of any school. The term shall not include any of the
17 following: (i) land, buildings, or other facilities owned, leased, or otherwise
18 controlled by educational institutions but not used primarily for educational
19 purposes; (ii) a religious institution for which facilities are used as a school
20 on a part-time basis, provided such facilities are not currently in use as a
21 school; (iii) a road or other publicly used thoroughfare which crosses an
22 educational campus; or (iv) a medical facility for which the primary purpose
23 is patient care rather than education."

24 **SECTION 4.2.** G.S. 14-269.2 is amended by adding a new subsection to read:

25 "(b2) Restrictions on extracurricular activities listed in subsection (b) of this section do
26 not apply to persons not participating in the extracurricular activity provided the extracurricular
27 activity is conducted in a public place, including, but not limited to, a restaurant, public park, or
28 museum."

29 **SECTION 4.3.** G.S. 14-269.2(g) reads as rewritten:

30 "(g) This section shall not apply to any of the following:

31 (1) A weapon used solely for educational or school-sanctioned ceremonial
32 purposes, or used in a school-approved program conducted under the
33 supervision of an adult whose supervision has been approved by the school
34 authority.

35 ~~(1a) A person exempted by the provisions of G.S. 14-269(b).~~

36 (1b) A person exempted by the provisions of G.S. 14-269(b)(1), (2), (3), (4), or
37 (5).

38"

39 **SECTION 4.4.** G.S. 14-269.4 reads as rewritten:

40 "**§ 14-269.4. Weapons on certain State property and in courthouses.**

41 It shall be unlawful for any person to possess, or carry, whether openly or concealed, any
42 deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in
43 the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or
44 on the grounds of any of these buildings, and in any building housing any court of the General
45 Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the
46 court, then this prohibition shall apply only to that portion of the building used for court
47 purposes while the building is being used for court purposes.

48 This section shall not apply to any of the following:

49 (1) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997.

50 (1a) A person exempted by the provisions of G.S. 14-269(b).

51 (2) through (4) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,

1 (2b) The Governor and the Governor's immediate family if the property is the
2 Executive Mansion or the Western Residence of the Governor.

3 "

4 **SECTION 4.5.** G.S. 14-415.10 reads as rewritten:

5 **"§ 14-415.10. Definitions.**

6 The following definitions apply to this Article:

7 ...

8 (4) Qualified former sworn law enforcement officer. – An individual who
9 retired from service as a law enforcement officer with a local, State, campus
10 police, or company police agency in North Carolina, other than for reasons
11 of mental disability, who has been retired as a sworn law enforcement
12 officer ~~two~~five years or less from the date of the permit application, and
13 who satisfies all of the following:

14 a. Immediately before retirement, the individual was a qualified law
15 enforcement officer with a local, State, or company police agency in
16 North Carolina.

17 b. The individual has a nonforfeitable right to benefits under the
18 retirement plan of the local, State, or company police agency as a law
19 enforcement officer; or has 20 or more aggregate years of law
20 enforcement service and has retired from a company police agency
21 that does not have a retirement plan; or has 20 or more aggregate
22 years of part-time or auxiliary law enforcement service.

23 c. The individual is not prohibited by State or federal law from
24 receiving a firearm.

25 (4a) Qualified retired correctional officer. – An individual who retired from
26 service as a State correctional officer, other than for reasons of mental
27 disability, who has been retired as a correctional officer ~~two~~five years or
28 less from the date of the permit application and who meets all of the
29 following criteria:

30 a. Immediately before retirement, the individual met firearms training
31 standards of the Division of Adult Correction of the Department of
32 Public Safety and was authorized by the Division of Adult Correction
33 of the Department of Public Safety to carry a handgun in the course
34 of assigned duties.

35 b. The individual retired in good standing and was never a subject of a
36 disciplinary action by the Division of Adult Correction of the
37 Department of Public Safety that would have prevented the
38 individual from carrying a handgun.

39 c. The individual has a vested right to benefits under the Teachers' and
40 State Employees' Retirement System of North Carolina established
41 under Article 1 of Chapter 135 of the General Statutes.

42 d. The individual is not prohibited by State or federal law from
43 receiving a firearm.

44 (4b) Qualified retired law enforcement officer. – An individual who meets the
45 definition of "qualified retired law enforcement officer" contained in section
46 926C of Title 18 of the United States Code.

47 (4c) Qualified retired probation or parole certified officer. – An individual who
48 retired from service as a State probation or parole certified officer, other than
49 for reasons of mental disability, who has been retired as a probation or
50 parole certified officer ~~two~~five years or less from the date of the permit
51 application and who meets all of the following criteria:

- 1 a. Immediately before retirement, the individual met firearms training
2 standards of the Division of Adult Correction of the Department of
3 Public Safety and was authorized by the Division of Adult Correction
4 of the Department of Public Safety to carry a handgun in the course
5 of duty.
6 b. The individual retired in good standing and was never a subject of a
7 disciplinary action by the Division of Adult Correction of the
8 Department of Public Safety that would have prevented the
9 individual from carrying a handgun.
10 c. The individual has a vested right to benefits under the Teachers' and
11 State Employees' Retirement System of North Carolina established
12 under Article 1 of Chapter 135 of the General Statutes.
13 d. The individual is not prohibited by State or federal law from
14 receiving a firearm.
- 15 (5) Qualified sworn law enforcement officer. – A law enforcement officer
16 employed by a local, State, campus police, or company police agency in
17 North Carolina who satisfies all of the following:
18 a. The individual is authorized by the agency to carry a handgun in the
19 course of duty.
20 b. The individual is not the subject of a disciplinary action by the
21 agency that prevents the carrying of a handgun.
22 c. The individual meets the requirements established by the agency
23 regarding handguns."

24 **SECTION 4.6.(a)** G.S. 14-415.11(b) reads as rewritten:

25 "(b) The sheriff shall issue a permit to carry a concealed handgun to a person who
26 qualifies for a permit under G.S. 14-415.12. The permit shall be valid throughout the State for a
27 period of ~~five~~ 10 years from the date of issuance."

28 **SECTION 4.6.(b)** This section becomes effective June 30, 2018, and applies to
29 permits issued on or after that date.

30 **SECTION 4.7.** G.S. 14-415.12(b)(7) reads as rewritten:

31 "(b) The sheriff shall deny a permit to an applicant who:

- 32 ...
33 (7) Is or has been discharged from the Armed Forces of the United States under
34 ~~conditions other than honorable.~~ dishonorable conditions."

35 **SECTION 4.8.(a)** G.S. 120-32.1 is amended by adding the following subsections
36 to read:

37 "(c2) No rule adopted under this section shall prohibit a legislator or legislative employee
38 who has a concealed handgun permit issued in accordance with Article 54B of Chapter 14 of
39 the General Statutes, or considered valid under G.S. 14-415.24, from carrying a concealed
40 handgun on the premises of the State legislative buildings and grounds. The Legislative
41 Services Commission may adopt a rule requiring a legislator or a legislative employee to
42 provide notice to the Chief of the General Assembly Special Police, or the Chief's designee,
43 before carrying the handgun on the premises of the State legislative buildings and grounds;
44 however, once initial notice is provided as required by this subsection, no subsequent
45 notification shall be required. The Legislative Services Commission may also adopt rules
46 establishing a procedure for such notification.

47 (c3) Notwithstanding subsection (c2) of this section, the Legislative Services
48 Commission may adopt a rule prohibiting or regulating the carrying of a firearm openly or
49 concealed in the Gallery of the State legislative building."

50 **SECTION 4.8.(b)** G.S. 14-415.11(c)(3) reads as rewritten:

1 "(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry
2 a concealed handgun in any of the following:

- 3 ...
- 4 (3) In an area prohibited by rule adopted under ~~G.S. 120-32.1~~G.S. 120-32.1,
5 except that a legislator or legislative employee who has a concealed handgun
6 permit issued in accordance with Article 54B of Chapter 14 of the General
7 Statutes, or considered valid under G.S. 14-415.24, may carry a concealed
8 handgun on the premises of the State legislative buildings and grounds as
9 defined in G.S. 120-32.1(d); provided, he or she complies with any notice
10 requirement adopted by the Legislative Services Commission."

11 **SECTION 4.9.** G.S. 14-269.1 reads as rewritten:

12 **"§ 14-269.1. Confiscation and disposition of deadly weapons.**

13 Upon conviction of any person for violation of G.S. 14-269, G.S. 14-269.7, or any other
14 offense involving the use of a deadly weapon of a type referred to in G.S. 14-269, the deadly
15 weapon with reference to which the defendant shall have been convicted shall be ordered
16 confiscated and disposed of by the presiding judge at the trial ~~in one of the following ways in~~
17 ~~the discretion of the presiding judge~~as provided in subdivision (1) of this section. If the owner
18 of the weapon is the convicted defendant, then the weapon shall be disposed of as provided by
19 subdivisions (4) through (6) of this section in the discretion of the presiding judge:

- 20 (1) By ordering the weapon returned to its rightful owner, but only when such
21 owner is a person other than the defendant and has filed a petition for the
22 recovery of such weapon with the presiding judge at the time of the
23 defendant's conviction, and upon a finding by the presiding judge that
24 petitioner is entitled to possession of same and that he was unlawfully
25 deprived of the same without his consent.
- 26 (2), (3) Repealed by Session Laws 1994, Ex. Sess., c. 16, s. 2.
- 27 (4) By ordering such weapon turned over to the sheriff of the county in which
28 the trial is held or his duly authorized agent to be destroyed if the firearm
29 does not have a legible, unique identification number or is unsafe for use
30 because of wear, damage, age, or modification. The sheriff shall maintain a
31 record of the destruction thereof.
- 32 (4a) Repealed by Session Laws 2005-287, s. 3, effective August 22, 2005.
- 33 (4b) By ordering the weapon turned over to a law enforcement agency in the
34 county of trial for (i) the official use of the agency or (ii) sale, trade, or
35 exchange by the agency to a federally licensed firearm dealer in accordance
36 with all applicable State and federal firearm laws. The court may order a
37 disposition of the firearm pursuant to this subdivision only upon the written
38 request of the head or chief of the law enforcement agency or a designee of
39 the head or chief of the law enforcement agency and only if the firearm has a
40 legible, unique identification number. If the law enforcement agency sells
41 the firearm, then the proceeds of the sale shall be remitted to the appropriate
42 county finance officer as provided by G.S. 115C-452 to be used to maintain
43 free public schools. The receiving law enforcement agency shall maintain a
44 record and inventory of all firearms received pursuant to this subdivision.
- 45 (5) By ordering such weapon turned over to the North Carolina State Crime
46 Laboratory's weapons reference library for official use by that agency. The
47 Laboratory shall maintain a record and inventory of all such weapons
48 received.
- 49 (6) By ordering such weapons turned over to the North Carolina Justice
50 Academy for official use by that agency. The North Carolina Justice

1 Academy shall maintain a record and inventory of all such weapons
2 received."

3 **SECTION 4.10.** G.S. 15-11.1 reads as rewritten:

4 **"§ 15-11.1. Seizure, custody and disposition of articles; exceptions.**

5 (a) If a law-enforcement officer seizes property pursuant to lawful authority, he shall
6 safely keep the property under the direction of the court or magistrate as long as necessary to
7 assure that the property will be produced at and may be used as evidence in any trial. Upon
8 application by the lawful owner or a person, firm or corporation entitled to possession or upon
9 his own determination, the district attorney may release any property seized pursuant to his
10 lawful authority if he determines that such property is no longer useful or necessary as evidence
11 in a criminal trial and he is presented with satisfactory evidence of ownership. If the district
12 attorney refuses to release such property, the lawful owner or a person, firm or corporation
13 entitled to possession may make application to the court for return of the property. The court,
14 after notice to all parties, including the defendant, and after hearing, may in its discretion order
15 any or all of the property returned to the lawful owner or a person, firm or corporation entitled
16 to possession. The court may enter such order as may be necessary to assure that the evidence
17 will be available for use as evidence at the time of trial, and will otherwise protect the rights of
18 all parties. Notwithstanding any other provision of law, photographs or other identification or
19 analyses made of the property may be introduced at the time of the trial provided that the court
20 determines that the introduction of such substitute evidence is not likely to substantially
21 prejudice the rights of the defendant in the criminal trial.

22 (b) In the case of unknown or unapprehended defendants or of defendants willfully
23 absent from the jurisdiction, the court shall determine whether an attorney should be appointed
24 as guardian ad litem to represent and protect the interest of such unknown or absent defendants.
25 Appointment shall be in accordance with rules adopted by the Office of Indigent Defense
26 Services. The judicial findings concerning identification or value that are made at such hearing
27 whereby property is returned to the lawful owner or a person, firm, or corporation entitled to
28 possession, may be admissible into evidence at the trial. After final judgment all property
29 lawfully seized by or otherwise coming into the possession of law-enforcement authorities shall
30 be disposed of as the court or magistrate in its discretion orders, and may be forfeited and either
31 sold or destroyed in accordance with due process of law.

32 (b1) Notwithstanding subsections (a) and (b) of this section or any other provision of
33 law, if the property seized is a firearm and the district attorney determines the firearm is no
34 longer necessary or useful as evidence in a criminal trial, the district attorney, after notice to all
35 parties known or believed by the district attorney to have an ownership or a possessory interest
36 in the firearm, including the defendant, shall apply to the court for an order of disposition of the
37 firearm. The judge, after hearing, ~~may shall~~ order the disposition of the firearm as provided in
38 subdivision (1) of this subsection unless the rightful owner is the defendant. If the rightful
39 owner is the defendant, then the judge may order the disposition of the firearm in one of the
40 following ways: ways described by subdivisions (2) through (4) of this subsection:

- 41 (1) By ordering the firearm returned to its rightful owner, when the rightful
42 owner is someone other than the defendant and upon findings by the court (i)
43 that the person, firm, or corporation determined by the court to be the
44 rightful owner is entitled to possession of the firearm and (ii) that the person,
45 firm, or corporation determined by the court to be the rightful owner of the
46 firearm was unlawfully deprived of the same or had no knowledge or
47 reasonable belief of the defendant's intention to use the firearm unlawfully.
- 48 (2) By ordering the firearm returned to the defendant, but only if the defendant
49 is not convicted of any criminal offense in connection with the possession or
50 use of the firearm, the defendant is the rightful owner of the firearm, and the
51 defendant is not otherwise ineligible to possess such firearm.

1 (3) By ordering the firearm turned over to be destroyed by the sheriff of the
2 county in which the firearm was seized or by his duly authorized agent if the
3 firearm does not have a legible, unique identification number or is unsafe for
4 use because of wear, damage, age, or modification. The sheriff shall
5 maintain a record of the destruction of the firearm.

6 (4) By ordering the firearm turned over to a law enforcement agency in the
7 county of trial for (i) the official use of the agency or (ii) sale, trade, or
8 exchange by the agency to a federally licensed firearm dealer in accordance
9 with all applicable State and federal firearm laws. The court may order a
10 disposition of the firearm pursuant to this subdivision only if the firearm has
11 a legible, unique identification number. If the law enforcement agency sells
12 the firearm, then the proceeds of the sale shall be remitted to the appropriate
13 county finance officer as provided by G.S. 115C-452 to be used to maintain
14 free public schools. The receiving law enforcement agency shall maintain a
15 record and inventory of all firearms received pursuant to this subdivision.

16 This subsection (b1) is not applicable to seizures pursuant to G.S. 113-137 of firearms used
17 only in connection with a violation of Article 22 of Chapter 113 of the General Statutes or any
18 local wildlife hunting ordinance.

19 (c) Any property, the forfeiture and disposition of which is specified in any general or
20 special law, shall be disposed of in accordance therewith."

21 **SECTION 4.11.** Article 35 of Chapter 14 of the General Statutes is amended by
22 adding a new section to read:

23 "**§ 14-277.6. Going armed to the terror of the people.**

24 (a) A person who arms himself or herself with an unusual and dangerous weapon for
25 the purpose of terrifying others and goes about on public highways in a manner to cause terror
26 to the people is guilty of a Class 1 misdemeanor.

27 (b) No person shall be convicted of a violation of subsection (a) of this section based
28 only on the person's possession or carrying of a handgun, whether openly or concealed."

29 **SECTION 4.12.** This Part becomes effective September 1, 2017. Sections 4.6 and
30 4.7 of this Part apply to permits issued on or after September 1, 2017.

31
32 **PART V. REPEAL PISTOL PERMIT**

33 **SECTION 5.1.(a)** The following statutes are repealed: G.S. 14-402, 14-403,
34 14-404, 14-405, 14-407.1, and 122C-(d3), as enacted by Section 1.2 of this act.

35 **SECTION 5.1.(b)** This Part becomes effective June 30, 2018.

36
37 **PART VI. EFFECTIVE DATE**

38 **SECTION 6.** Unless otherwise provided, this act is effective when it becomes law.