

Article 36A.

Riots, Civil Disorders, and Emergencies.

**§ 14-288.1. Definitions.**

Unless the context clearly requires otherwise, the following definitions apply in this Article:

- (1) Chairman of the board of county commissioners. – The chairman of the board of county commissioners or, in case of the chairman's absence or disability, the person authorized to act in the chairman's stead. Unless the governing body of the county has specified who is to act in lieu of the chairman with respect to a particular power or duty set out in this Article, the term "chairman of the board of county commissioners" shall apply to the person generally authorized to act in lieu of the chairman.
- (2) Dangerous weapon or substance. – Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device, as defined in G.S. 14-288.8(c)(5), or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict serious bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included above, when the circumstances indicate a probability that such part or ingredient will be so used.
- (3) Declared state of emergency. – A state of emergency as that term is defined in G.S. 166A-19.3 or a state of emergency found and declared by any chief executive official or acting chief executive official of any county or municipality acting under the authority of any other applicable statute or provision of the common law to preserve the public peace in a state of emergency, or by any executive official or military commanding officer of the United States or the State of North Carolina who becomes primarily responsible under applicable law for the preservation of the public peace within any part of North Carolina.
- (4) Disorderly conduct. – As defined in G.S. 14-288.4(a).
- (4a) Emergency. – As defined in G.S. 166A-19.3.
- (5) Law enforcement officer. – Any officer of the State of North Carolina or any of its political subdivisions authorized to make arrests; any other person authorized under the laws of North Carolina to make arrests and either acting within that person's territorial jurisdiction or in an area in which that person has been lawfully called to duty by the Governor or any mayor or chairman of the board of county commissioners; any member of the Armed Forces of the United States, the North Carolina National Guard, or the North Carolina State Defense Militia called to duty in a state of emergency in North Carolina and made responsible for enforcing the laws of North Carolina or preserving the public peace; or any officer of the United States authorized to make arrests without warrant and assigned to duties that include preserving the public peace in North Carolina.
- (6) Mayor. – The mayor or other chief executive official of a municipality or, in case of that person's absence or disability, the person authorized to act in that person's stead. Unless the governing body of the municipality has specified who

is to act in lieu of the mayor with respect to a particular power or duty set out in this Article, the word "mayor" shall apply to the person generally authorized to act in lieu of the mayor.

- (7) Municipality. – Any active incorporated city or town, but not including any sanitary district or other municipal corporation that is not a city or town. An "active" municipality is one which has conducted the most recent election required by its charter or the general law, whichever is applicable, and which has the authority to enact general police-power ordinances.
- (8) Public disturbance. – Any annoying, disturbing, or alarming act or condition exceeding the bounds of social toleration normal for the time and place in question which occurs in a public place or which occurs in, affects persons in, or is likely to affect persons in a place to which the public or a substantial group has access. The places covered by this definition shall include, but not be limited to, highways, transport facilities, schools, prisons, apartment houses, places of business or amusement, or any neighborhood.
- (9) Riot. – As defined in G.S. 14-288.2(a).
- (10) Repealed by Session Laws 2012-12, s. 2(a), effective October 1, 2012. (1969, c. 869, s. 1; 1975, c. 718, s. 5; 2009-281, s. 1; 2011-183, s. 10; 2012-12, s. 2(a).)

#### **§ 14-288.2. Riot; inciting to riot; punishments.**

(a) A riot is a public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property.

(b) Any person who willfully engages in a riot is guilty of a Class 1 misdemeanor.

(c) Any person who willfully engages in a riot is guilty of a Class H felony, if:

- (1) In the course and as a result of the riot there is property damage in excess of fifteen hundred dollars (\$1,500) or serious bodily injury; or
- (2) Such participant in the riot has in his possession any dangerous weapon or substance.

(d) Any person who willfully incites or urges another to engage in a riot, so that as a result of such inciting or urging a riot occurs or a clear and present danger of a riot is created, is guilty of a Class 1 misdemeanor.

(e) Any person who willfully incites or urges another to engage in a riot, and such inciting or urging is a contributing cause of a riot in which there is property damage in excess of fifteen hundred dollars (\$1,500) or serious bodily injury, shall be punished as a Class F felon. (1969, c. 869, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, ss. 187, 188, 1225, 1226; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 14-288.3. Provisions of Article intended to supplement common law and other statutes.**

The provisions of this Article are intended to supersede and extend the coverage of the common-law crimes of riot and inciting to riot. To the extent that such common-law offenses may embrace situations not covered under the provisions of this Article, however, criminal prosecutions may be brought for such crimes under the common law. All other provisions of the Article are intended to be supplementary and additional to the common law and other statutes of this State and, except as specifically indicated, shall not be construed to abrogate, abolish, or supplant other

provisions of law. In particular, this Article shall not be deemed to abrogate, abolish, or supplant such common-law offenses as unlawful assembly, rout, conspiracy to commit riot or other criminal offenses, false imprisonment, and going about armed to the terror of the populace and other comparable public-nuisance offenses. (1969, c. 869, s. 1.)

**§ 14-288.4. Disorderly conduct.**

(a) Disorderly conduct is a public disturbance intentionally caused by any person who does any of the following:

- (1) Engages in fighting or other violent conduct or in conduct creating the threat of imminent fighting or other violence.
- (2) Makes or uses any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace.
- (3) Takes possession of, exercises control over, or seizes any building or facility of any public or private educational institution without the specific authority of the chief administrative officer of the institution, or his authorized representative.
- (4) Refuses to vacate any building or facility of any public or private educational institution in obedience to any of the following:
  - a. An order of the chief administrative officer of the institution, or the officer's representative, who shall include for colleges and universities the vice chancellor for student affairs or the vice-chancellor's equivalent for the institution, the dean of students or the dean's equivalent for the institution, the director of the law enforcement or security department for the institution, and the chief of the law enforcement or security department for the institution.
  - b. An order given by any fireman or public health officer acting within the scope of the fireman's or officer's authority.
  - c. If an emergency is occurring or is imminent within the institution, an order given by any law-enforcement officer acting within the scope of the officer's authority.
- (5) Shall, after being forbidden to do so by the chief administrative officer, or the officer's authorized representative, of any public or private educational institution:
  - a. Engage in any sitting, kneeling, lying down, or inclining so as to obstruct the ingress or egress of any person entitled to the use of any building or facility of the institution in its normal and intended use; or
  - b. Congregate, assemble, form groups or formations (whether organized or not), block, or in any manner otherwise interfere with the operation or functioning of any building or facility of the institution so as to interfere with the customary or normal use of the building or facility.
- (6) Disrupts, disturbs or interferes with the teaching of students at any public or private educational institution or engages in conduct which disturbs the peace, order or discipline at any public or private educational institution or on the grounds adjacent thereto.
- (6a) Engages in conduct which disturbs the peace, order, or discipline on any public school bus or public school activity bus.

- (7) Except as provided in subdivision (8) of this subsection, disrupts, disturbs, or interferes with a religious service or assembly or engages in conduct which disturbs the peace or order at any religious service or assembly.
- (8) Engages in conduct with the intent to impede, disrupt, disturb, or interfere with the orderly administration of any funeral, memorial service, or family processional to the funeral or memorial service, including a military funeral, service, or family processional, or with the normal activities and functions occurring in the facilities or buildings where a funeral or memorial service, including a military funeral or memorial service, is taking place. Any of the following conduct that occurs within two hours preceding, during, or within two hours after a funeral or memorial service shall constitute disorderly conduct under this subdivision:
  - a. Displaying, within 500 feet of the ceremonial site, location being used for the funeral or memorial, or the family's processional route to the funeral or memorial service, any visual image that conveys fighting words or actual or imminent threats of harm directed to any person or property associated with the funeral, memorial service, or processional route.
  - b. Uttering, within 500 feet of the ceremonial site, location being used for the funeral or memorial service, or the family's processional route to the funeral or memorial service, loud, threatening, or abusive language or singing, chanting, whistling, or yelling with or without noise amplification in a manner that would tend to impede, disrupt, disturb, or interfere with a funeral, memorial service, or processional route.
  - c. Attempting to block or blocking pedestrian or vehicular access to the ceremonial site or location being used for a funeral or memorial.

As used in this section the term "building or facility" includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

(b) Except as provided in subsection (c) of this section, any person who willfully engages in disorderly conduct is guilty of a Class 2 misdemeanor.

(c) A person who commits a violation of subdivision (8) of subsection (a) of this section is guilty of:

- (1) A Class 1 misdemeanor for a first offense.
- (2) A Class I felony for a second offense.
- (3) A Class H felony for a third or subsequent offense. (1969, c. 869, s. 1; 1971, c. 668, s. 1; 1973, c. 1347; 1975, c. 19, s. 4; 1983, c. 39, s. 5; 1987, c. 671, s. 1; 1993, c. 539, s. 189; 1994, Ex. Sess., c. 24, s. 14(c); 2001-26, s. 2; 2006-169, s. 1; 2012-12, s. 2(b); 2013-6, s. 1.)

**§ 14-288.5. Failure to disperse when commanded a misdemeanor; prima facie evidence.**

(a) Any law-enforcement officer or public official responsible for keeping the peace may issue a command to disperse in accordance with this section if he reasonably believes that a riot, or disorderly conduct by an assemblage of three or more persons, is occurring. The command to disperse shall be given in a manner reasonably calculated to be communicated to the assemblage.

(b) Any person who fails to comply with a lawful command to disperse is guilty of a Class 2 misdemeanor.

(c) If any person remains at the scene of any riot, or disorderly conduct by an assemblage of three or more persons, following a command to disperse and after a reasonable time for dispersal has elapsed, it is prima facie evidence that the person so remaining is willfully engaging in the riot or disorderly conduct, as the case may be. (1969, c. 869, s. 1; 1993, c. 539, s. 190; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-288.6. Looting; trespass during emergency.**

(a) Any person who enters upon the premises of another without legal justification when the usual security of property is not effective due to the occurrence or aftermath of riot, insurrection, invasion, storm, fire, explosion, flood, collapse, or other disaster or calamity is guilty of a Class 1 misdemeanor of trespass during an emergency.

(b) Any person who commits the crime of trespass during emergency and, without legal justification, obtains or exerts control over, damages, ransacks, or destroys the property of another is guilty of the felony of looting and shall be punished as a Class H felon. (1969, c. 869, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, ss. 191, 1227; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-288.7:** Repealed by Session Laws 2012-12, s. 2(c), effective October 1, 2012.

**§ 14-288.8. Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction; exceptions.**

(a) Except as otherwise provided in this section, it is unlawful for any person to manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire any weapon of mass death and destruction.

(b) This section does not apply to any of the following:

- (1) Persons exempted from the provisions of G.S. 14-269 with respect to any activities lawfully engaged in while carrying out their duties.
- (2) Importers, manufacturers, dealers, and collectors of firearms, ammunition, or destructive devices validly licensed under the laws of the United States or the State of North Carolina, while lawfully engaged in activities authorized under their licenses.
- (3) Persons under contract with the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts.
- (4) Inventors, designers, ordnance consultants and researchers, chemists, physicists, and other persons lawfully engaged in pursuits designed to enlarge knowledge or to facilitate the creation, development, or manufacture of weapons of mass death and destruction intended for use in a manner consistent with the laws of the United States and the State of North Carolina.
- (5) Persons who lawfully possess or own a weapon as defined in subsection (c) of this section in compliance with 26 U.S.C. Chapter 53, §§ 5801-5871. Nothing in this subdivision shall limit the discretion of the sheriff in executing the paperwork required by the United States Bureau of Alcohol, Tobacco and Firearms for such person to obtain the weapon.

- (c) The term "weapon of mass death and destruction" includes:
- (1) Any explosive or incendiary:
    - a. Bomb; or
    - b. Grenade; or
    - c. Rocket having a propellant charge of more than four ounces; or
    - d. Missile having an explosive or incendiary charge of more than one-quarter ounce; or
    - e. Mine; or
    - f. Device similar to any of the devices described above; or
  - (2) Any type of weapon (other than a shotgun or a shotgun shell of a type particularly suitable for sporting purposes) which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; or
  - (3) Any firearm capable of fully automatic fire, any shotgun with a barrel or barrels of less than 18 inches in length or an overall length of less than 26 inches, any rifle with a barrel or barrels of less than 16 inches in length or an overall length of less than 26 inches, any muffler or silencer for any firearm, whether or not such firearm is included within this definition. For the purposes of this section, rifle is defined as a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; or
  - (4) Any combination of parts either designed or intended for use in converting any device into any weapon described above and from which a weapon of mass death and destruction may readily be assembled.

The term "weapon of mass death and destruction" does not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of Title 10 of the United States Code; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes, in accordance with Chapter 44 of Title 18 of the United States Code.

(d) Any person who violates any provision of this section is guilty of a Class F felony. (1969, c. 869, s. 1; 1975, c. 718, ss. 6, 7; 1977, c. 810; 1983, c. 413, ss. 1, 2; 1993, c. 539, s. 1228; 1994, Ex. Sess., c. 24, s. 14(c); 2001-470, s. 3; 2011-268, s. 8.)

**§ 14-288.9. Assault on emergency personnel; punishments.**

(a) An assault upon emergency personnel is an assault upon any person coming within the definition of "emergency personnel" which is committed in an area:

- (1) In which a declared state of emergency exists; or
- (2) Within the immediate vicinity of which a riot is occurring or is imminent.

(b) The term "emergency personnel" includes law-enforcement officers, firemen, ambulance attendants, utility workers, doctors, nurses, and other persons lawfully engaged in providing essential services during the emergency.

(c) Any person who commits an assault causing physical injury upon emergency personnel is guilty of a Class I felony. Any person who commits an assault upon emergency personnel with or through the use of any dangerous weapon or substance shall be punished as a Class F felon.

(1969, c. 869, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, ss. 193, 1229; 1994, Ex. Sess., c. 24, s. 14(c); 2011-356, s. 3.)

**§ 14-288.10. Frisk of persons during violent disorders; frisk of curfew violators.**

(a) Any law-enforcement officer may frisk any person in order to discover any dangerous weapon or substance when he has reasonable grounds to believe that the person is or may become unlawfully involved in an existing riot and when the person is close enough to such riot that he could become immediately involved in the riot. The officer may also at that time inspect for the same purpose the contents of any personal belongings that the person has in his possession.

(b) Any law-enforcement officer may frisk any person he finds violating the provisions of a curfew proclaimed under the authority of G.S. 14-288.12, 14-288.13, 14-288.14, or 14-288.15 or any other applicable statutes or provisions of the common law in order to discover whether the person possesses any dangerous weapon or substance. The officer may also at that time inspect for the same purpose the contents of any personal belongings that the person has in his possession. (1969, c. 869, s. 1.)

**§ 14-288.11. Warrants to inspect vehicles in riot areas or approaching municipalities during emergencies.**

(a) Notwithstanding the provisions of Article 4 of Chapter 15, any law-enforcement officer may, under the conditions specified in this section, obtain a warrant authorizing inspection of vehicles under the conditions and for the purpose specified in subsection (b).

(b) The inspection shall be for the purpose of discovering any dangerous weapon or substance likely to be used by one who is or may become unlawfully involved in a riot. The warrant may be sought to inspect:

- (1) All vehicles entering or approaching a municipality in which an emergency exists; or
- (2) All vehicles which might reasonably be regarded as being within or approaching the immediate vicinity of an existing riot.

(c) The warrant may be issued by any judge or justice of the General Court of Justice.

(d) The issuing official shall issue the warrant only when he has determined that the one seeking the warrant has been specifically authorized to do so by the head of the law-enforcement agency of which the affiant is a member, and:

- (1) If the warrant is being sought for the inspection of vehicles entering or approaching a municipality, that an emergency exists within the municipality; or
- (2) If the warrant being sought is for the inspection of vehicles within or approaching the immediate vicinity of a riot, that a riot is occurring within that area.

Facts indicating the basis of these determinations must be stated in an affidavit and signed by the affiant under oath or affirmation.

(e) The warrant must be signed by the issuing official and must bear the hour and date of its issuance.

(f) The warrant must indicate whether it is for the inspection of vehicles entering or approaching a municipality or whether it is for the inspection of vehicles within or approaching the immediate vicinity of a riot. In either case, it must also specify with reasonable precision the area within which it may be exercised.

(g) The warrant shall become invalid 24 hours following its issuance and must bear a notation to that effect.

(h) Warrants authorized under this section shall not be regarded as search warrants for the purposes of application of Article 4 of Chapter 15.

(i) Nothing in this section is intended to prevent warrantless frisks, searches, and inspections to the extent that they may be constitutional and consistent with common law and governing statutes. (1969, c. 869, s. 1; 2012-12, s. 2(d).)

§ 14-288.12: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.13: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.14: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.15: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.16: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.17: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

**§ 14-288.18. Injunction to cope with emergencies at public and private educational institutions.**

(a) The chief administrative officer, or his authorized representative, of any public or private educational institution may apply to any superior court judge for injunctive relief if an emergency exists within his institution. For the purposes of this section, the superintendent of any city or county administrative school unit shall be deemed the chief administrative officer of any public elementary or secondary school within his unit.

(b) Upon a finding by a superior court judge, to whom application has been made under the provisions of this section, that an emergency exists within a public or private educational institution by reason of riot, disorderly conduct by three or more persons, or the imminent threat of riot, the judge may issue an injunction containing provisions appropriate to cope with the emergency then occurring or threatening. The injunction may be addressed to named persons or named or described groups of persons as to whom there is satisfactory cause for believing that they are contributing to the emergency, and ordering such persons or groups of persons to take or refrain or desist from taking such various actions as the judge finds it appropriate to include in his order. (1969, c. 869, s. 1; 2012-12, s. 2(f).)

§ 14-288.19: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

**§ 14-288.20. Certain weapons at civil disorders.**

(a) The definitions in G.S. 14-288.1 do not apply to this section. As used in this section:

- (1) The term "civil disorder" means any public disturbance involving acts or violence by assemblages of three or more persons, which causes an immediate danger of damage or injury to the property or person of any other individual or results in damage or injury to the property or person of any other individual.

- (2) The term "firearm" means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of such a weapon.
  - (3) The term "explosive or incendiary device" means (i) dynamite and all other forms of high explosives, (ii) any explosive bomb, grenade, missile, or similar device, and (iii) any incendiary bomb or grenade, fire bomb, or similar device, including any device which (i) consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting that flammable liquid or compound, and (ii) can be carried or thrown by one individual acting alone.
  - (4) The term "law-enforcement officer" means any officer of the United States, any state, any political subdivision of a state, or the District of Columbia charged with the execution of the laws thereof; civil officers of the United States; officers and soldiers of the organized militia and state guard of any state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and members of the Armed Forces of the United States.
- (b) A person is guilty of a Class H felony, if he:
- (1) Teaches or demonstrates to any other person the use, application, or making of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder; or
  - (2) Assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, intending to employ unlawfully the training, practicing, instruction, or technique for use in, or in furtherance of, a civil disorder.
- (c) Nothing contained in this section shall make unlawful any act of any law-enforcement officer which is performed in the lawful performance of his official duties. (1981, c. 880, ss. 1, 2; 1993, c. 539, s. 1230; 1994, Ex. Sess., c. 24, s. 14(c); 2011-183, s. 11.)

**§ 14-288.20A. Violation of emergency prohibitions and restrictions.**

Any person who does any of the following is guilty of a Class 2 misdemeanor:

- (1) Violates any provision of an ordinance or a declaration enacted or declared pursuant to G.S. 166A-19.31.
- (2) Violates any provision of a declaration or executive order issued pursuant to G.S. 166A-19.30.
- (3) Willfully refuses to leave the building as directed in a Governor's order issued pursuant to G.S. 166A-19.78. (2012-12, s. 1(d).)