

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 356

Short Title: Concealed Handgun Permit.

(Public)

Sponsors: Senators Simpson, Kincaid, Cochrane, Forrester, Little, East, McDaniel, Ballantine, Foxx, Carrington, Clark, McKoy, Ledbetter, Webster, and Carpenter.

Referred to: Judiciary I/Constitution

March 13, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON WHO MEETS STATUTORY CRITERIA MAY CARRY A CONCEALED HANDGUN IF THE PERSON HAS OBTAINED A CONCEALED HANDGUN PERMIT, TO AUTHORIZE CLERKS OF COURT TO ISSUE CONCEALED HANDGUN PERMITS, TO ESTABLISH THE CRITERIA THAT MUST BE SATISFIED TO RECEIVE THE HANDGUN, TO ESTABLISH THE PROCEDURE FOR THE ISSUANCE OF A CONCEALED HANDGUN PERMIT, AND TO MAKE CONFORMING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 54B.

"CONCEALED HANDGUN PERMIT.

"§ 14-415.10. Definitions.

The following definitions apply to this Article:

(1) Carry a concealed handgun. – The term includes possession of a concealed handgun.

(2) Handgun. – A firearm that has a short stock and is designed to be held and fired by the use of a single hand.

1 (3) Permit. – A concealed handgun permit issued in accordance with the
2 provisions of this Article.

3 **"§ 14-415.11. Permit to carry concealed handgun; scope of permit.**

4 (a) Any person who has a concealed handgun permit may carry a concealed
5 handgun unless otherwise specifically prohibited by law. The person shall carry the
6 permit or a copy of the permit together with valid identification at all times the person is
7 carrying a concealed handgun and shall display both the permit and the proper
8 identification upon the request of a law enforcement officer.

9 (b) The clerk of the superior court shall issue a permit to carry a concealed
10 handgun to a person who qualifies for a permit under G.S. 14-415.12. The permit shall
11 be valid throughout the State for a period of four years from the date of issuance.

12 (c) A permit does not authorize a person to carry a concealed handgun in the areas
13 prohibited by G.S. 14-269.2, 14-269.3, 14-269.4, and 14-277.2 or in any area prohibited
14 by § 922 of Title 18 of the U.S. Code or any other federal law. A permit does not
15 authorize a person to carry a concealed handgun if the person is intoxicated.

16 (d) A person who is issued a permit shall notify the clerk of superior court who
17 issued the permit of any change in the person's permanent address within 30 days after
18 the change of address. If a permit is lost or destroyed, the person to whom the permit was
19 issued shall notify the clerk of the superior court who issued the permit of the loss or
20 destruction of the permit. A person may obtain a duplicate permit by submitting to the
21 clerk a notarized statement that the permit was lost or destroyed and paying a fee of
22 fifteen dollars (\$15.00).

23 **"§ 14-415.12. Criteria to qualify for the issuance of a permit.**

24 (a) The sheriff shall issue a permit to an applicant if the applicant qualifies under
25 the following criteria:

26 (1) The applicant is a citizen of the United States and has been a resident of
27 the State one month or longer immediately preceding the filing of the
28 application.

29 (2) The applicant is 21 years of age or older.

30 (3) The applicant does not suffer from a physical infirmity that prevents the
31 safe handling of a handgun.

32 (4) The applicant has completed a firearm safety or training course or class
33 that involves the actual firing of a handgun.

34 (b) The clerk of the superior court shall deny a permit to an applicant who:

35 (1) Is ineligible to own, possess, or receive a firearm under the provisions
36 of State or federal law.

37 (2) Is formally charged with a crime punishable by imprisonment for a term
38 exceeding one year.

39 (3) Has been adjudicated guilty in any court of a crime punishable by
40 imprisonment for a term exceeding one year.

41 (4) Is a fugitive from justice.

- 1 (5) Is an unlawful user of, or addicted to, marijuana or any depressant,
2 stimulant, or narcotic drug, or any other controlled substance as defined
3 in 21 U.S.C. 802.
- 4 (6) Is currently suffering or has been adjudicated as follows, based on
5 substantial evidence:
- 6 a. Lacking mental capacity.
7 b. Mentally ill; or
8 c. Gravely disabled; or
9 d. An incapacitated person.
- 10 (7) Is or has been discharged from the armed forces under dishonorable
11 conditions.
- 12 (8) Is or has been adjudicated guilty of or received a withheld judgment or
13 suspended sentence for one or more crimes of violence constituting a
14 misdemeanor, unless three years has elapsed since disposition or pardon
15 has occurred prior to the date on which the application is submitted.
- 16 (9) Has had entry of a withheld judgment for a criminal offense which
17 would disqualify the person from obtaining a concealed handgun
18 permit.
- 19 (10) Is an alien illegally in the United States.
- 20 (11) Is a person who, having been a citizen of the United States, has
21 renounced his or her citizenship.
- 22 (12) Is free on bond or personal recognizance pending trial, appeal, or
23 sentencing for a crime which would disqualify him from obtaining a
24 concealed handgun permit.
- 25 (13) Has been convicted of an impaired driving offense under G.S. 20-138.1,
26 20-138.2, or 20-138.3.

27 **"§ 14-415.13. Application for a permit; fingerprints.**

28 (a) A person shall apply to the clerk of the superior court of the county in which
29 the person resides to obtain a concealed handgun permit. The applicant shall submit to
30 the clerk all of the following:

- 31 (1) An application, completed under oath, on a form provided by the clerk.
32 (2) A nonrefundable permit fee of fifty dollars (\$50.00).
33 (3) A full set of fingerprints of the applicant administered by a law
34 enforcement agency of this State.
- 35 (4) Any of the following which shall be deemed to verify that the applicant
36 is competent with a handgun:
- 37 a. A legible photocopy of a certificate of completion of any of the
38 courses or classes or a notarized affidavit from the instructor,
39 school, club, organization, or group that conducts or teaches the
40 course or class attesting to the completion of the course or class
41 by the applicant; or
42 b. A legible photocopy of any document which shows completion
43 of the course or class.

1 (b) The clerk of the superior court shall submit the fingerprints to the State Bureau
2 of Investigation for a records check of State and national databases. The cost of
3 processing the set of fingerprints is part of the permit fee and no additional cost for
4 administering or processing the fingerprints shall be charged to an applicant.

5 **"§ 14-415.14. Application form to be provided by clerk; information to be included**
6 **in application form.**

7 (a) The clerk of the superior court shall make permit applications readily available
8 at the office of the clerk or at other public offices in the clerk's jurisdiction. The permit
9 application shall be in triplicate, in a form to be prescribed by the Administrative Office
10 of the Courts, and shall include the following information with regard to the applicant:
11 name, address, description, signature, date of birth, social security number, military
12 status, and the drivers license number or State identification card number of the applicant
13 if used for identification in applying for the permit.

14 (b) The permit application shall also contain a warning substantially as follows:

15 'CAUTION: Federal law and State law on the possession of handguns and firearms
16 differ. If you are prohibited by federal law from possessing a handgun or a firearm, you
17 may be prosecuted in federal court. A State permit is not a defense to a federal
18 prosecution.'

19 **"§ 14-415.15. Issuance or denial of permit; clerk to retain and make available to law**
20 **enforcement agencies a list of permittees.**

21 (a) Within 90 days after receipt of the items listed in G.S. 14-415.13 from an
22 applicant, the clerk of superior court shall either issue or deny the permit. The clerk may
23 conduct any investigation necessary to determine the qualification or competency of the
24 person applying for the permit, including record checks.

25 (b) A person's application for a permit shall be denied only if the applicant fails to
26 qualify under the criteria listed in this Article. If the clerk denies the application for a
27 permit, the clerk shall notify the applicant in writing, stating the grounds for denial.

28 (c) The clerk of superior court shall maintain a listing of those persons who are
29 issued permits and any pertinent information regarding the issued permit, and that
30 information shall be available upon request, at all times to all State law enforcement
31 agencies.

32 **"§ 14-415.16. Renewal of permit.**

33 (a) The holder of a permit shall renew the permit on or before its expiration date
34 by filing with the clerk of the superior court of the county in which the person resides a
35 renewal form provided by the clerk's office, a notarized affidavit stating that the permittee
36 remains qualified under the criteria provided in this Article, and a renewal fee of twenty-
37 five dollars (\$25.00). Upon receipt of the completed renewal application and appropriate
38 payment of fees, the clerk shall renew the permit if the person is qualified.

39 (b) Upon the expiration of a permit, there is a six-month grace period that begins
40 on the expiration date of the permit. A person who fails to renew the permit by the
41 expiration date of the permit may renew the permit as provided under subsection (a) of
42 this section if the person applies for renewal during the six-month grace period and pays

1 a late fee of fifteen dollars (\$15.00) in addition to the renewal fee of twenty-five dollars
2 (\$25.00).

3 (c) No permit shall be renewed more than six months after its expiration date. A
4 person whose permit has been expired more than six months may apply for a new permit
5 as provided by this Article.

6 **"§ 14-415.17. Permit.**

7 The permit shall be in a form substantially similar to that of the North Carolina
8 drivers license. It shall bear the signature, name, address, date of birth, social security
9 number and picture of the permittee, and the drivers license identification number used in
10 applying for the permit. Upon issuing a permit under the provisions of this section, the
11 clerk of the superior court shall mail a copy of the permit to the State Bureau of
12 Investigation.

13 **"§ 14-415.18. Revocation of permit.**

14 The clerk of the superior court of the county where the permit was issued or the clerk
15 of the superior court of the county where the person resides may revoke a permit
16 subsequent to a hearing for any of the following reasons:

- 17 (1) Fraud or intentional misrepresentation in the obtaining of a permit.
- 18 (2) Misuse of a permit, including lending or giving a permit to another
19 person, duplicating a permit, or using a permit with the intent to
20 unlawfully cause harm to a person or property.
- 21 (3) The doing of an act or existence of a condition which would have been
22 grounds for the denial of the permit by the clerk of the superior court.
- 23 (4) The violation of any of the terms of this Article.
- 24 (5) The applicant is adjudicated guilty of or receives a withheld judgment
25 for a crime which would have disqualified the applicant from initially
26 receiving a permit.

27 **"§ 14-415.19. No liability of clerk.**

28 A clerk of superior court who issues a permit to carry a concealed handgun under this
29 Article shall not incur any civil or criminal liability as the result of the performance of his
30 or her duties under this Article.

31 **"§ 14-415.20. Violations of this Article punishable as a Class 3 misdemeanor.**

32 A person who violates the provisions of this Article is guilty of a Class 3
33 misdemeanor.

34 **"§ 14-415.21. Construction of Article.**

35 This Article shall not be construed to require a person who may carry a concealed
36 handgun under the provisions of G.S. 14-269(b) to obtain a concealed handgun permit."

37 Sec. 2. G.S. 14-269 reads as rewritten:

38 **"§ 14-269. Carrying concealed weapons.**

39 (a) It shall be unlawful for any person, ~~except when on his own premises,~~ person
40 willfully and intentionally to carry concealed about his person any bowie knife, dirk,
41 dagger, slung shot, loaded cane, metallic knuckles, razor, shurikin, stun gun, pistol, gun
42 or other deadly weapon of like kind-kind, except in the following circumstances:

- 43 (1) The person is on the person's own premises.

1 (2) The deadly weapon is a handgun, and the person has a concealed
2 handgun permit issued in accordance with Article 54B of this Chapter.
3 ~~This section does not apply to an ordinary pocket knife carried in a closed position. As~~
4 ~~used in this section, 'ordinary pocket knife' means a small knife, designed for carrying in~~
5 ~~a pocket or purse, which has its cutting edge and point entirely enclosed by its handle,~~
6 ~~and that may not be opened by a throwing, explosive or spring action.~~

7 (b) This prohibition shall not apply to the following persons:

8 (1) Officers and enlisted personnel of the armed forces of the United States
9 when in discharge of their official duties as such and acting under orders
10 requiring them to carry arms and weapons;

11 (2) Civil officers of the United States while in the discharge of their official
12 duties;

13 (3) Officers and soldiers of the militia and the national guard when called
14 into actual service;

15 (4) Officers of the State, or of any county, city, or town, charged with the
16 execution of the laws of the State, when acting in the discharge of their
17 official duties;

18 (5) Full-time sworn law-enforcement officers, when off-duty, in the
19 jurisdiction where they are assigned, if:

20 a. Written regulations authorizing the carrying of concealed
21 weapons have been filed with the clerk of superior court in the
22 county where the law-enforcement unit is located by the sheriff
23 or chief of police or other superior officer in charge; and

24 b. Such regulations specifically prohibit the carrying of concealed
25 weapons while the officer is consuming or under the influence of
26 alcoholic beverages.

27 (c) It is a defense to a prosecution under this section that:

28 (1) The weapon was not a firearm;

29 (2) The defendant was engaged in, or on the way to or from, an activity in
30 which he legitimately used the weapon;

31 (3) The defendant possessed the weapon for that legitimate use; and

32 (4) The defendant did not use or attempt to use the weapon for an illegal
33 purpose.

34 The burden of proving this defense is on the defendant.

35 (c) Any person violating the provisions of this section shall be guilty of a Class 2
36 misdemeanor.

37 (d) This section does not apply to an ordinary pocket knife carried in a closed
38 position. As used in this section, 'ordinary pocket knife' means a small knife, designed
39 for carrying in a pocket or purse, that has its cutting edge and point entirely enclosed by
40 its handle, and that may not be opened by a throwing, explosive, or spring action."

41 Sec. 3. This act becomes effective December 1, 1995, and applies to offenses
42 committed on or after that date.