

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

1

HOUSE BILL 976

Short Title: Gun Safety Act. (Public)

Sponsors: Representatives Luebke, Harrison, Insko, and Adams (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Rules, Calendar, and Operations of the House.

April 18, 2013

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THE "STAND YOUR GROUND LAWS" AND CODIFY THE
2 COMMON LAW REGARDING THE USE OF FORCE AGAINST AN INTRUDER; TO
3 REPEAL THE LAW ALLOWING RECIPROCITY FOR CONCEALED HANDGUN
4 PERMITS; TO STRENGTHEN THE LAW REGARDING SAFE STORAGE OF
5 FIREARMS BY REQUIRING A PERSON WHO POSSESSES A FIREARM AND LIVES
6 WITH EITHER A MINOR OR ANOTHER PERSON WHO CAN NOT LEGALLY OWN
7 A FIREARM TO SAFELY STORE THE FIREARM IN A STORAGE DEPOSITORY OR
8 USE A SAFETY LOCK FOR THE FIREARM WHEN NOT IN POSSESSION OR
9 IMMEDIATE CONTROL OF THE FIREARM; TO REQUIRE THE REPORTING OF
10 LOST AND STOLEN GUNS; TO REQUIRE THE SHERIFF TO REPORT THE
11 DENIAL, REVOCATION, OR FAILURE TO RENEW A CONCEALED HANDGUN
12 PERMIT OR THE DENIAL OF A PISTOL PERMIT TO THE NATIONAL INSTANT
13 CRIMINAL BACKGROUND CHECK SYSTEM; TO REQUIRE UNIVERSAL
14 BACKGROUND CHECKS FOR THE PRIVATE TRANSFER OF FIREARMS IN
15 NORTH CAROLINA; TO PROVIDE THAT A FEE MAY BE CHARGED BY THE SBI
16 FOR CRIMINAL BACKGROUND CHECKS AND TO ESTABLISH A FUND TO HELP
17 PAY THE COSTS OF CONDUCTING BACKGROUND CHECKS; TO REQUIRE ANY
18 PERSON WHO OWNS A FIREARM TO CARRY FIREARM LIABILITY INSURANCE;
19 TO LIMIT THE SIZE OF AMMUNITION MAGAZINES; AND TO DIRECT THE
20 STATE TREASURER TO DIVEST THE PENSION FUND OF GUN STOCKS.
21

22 The General Assembly of North Carolina enacts:

23 **SECTION 1.** The following statutes are repealed: G.S. 14-51.2, 14-51.3, 14-51.4,
24 14-315.1, and 14-415.24.

25 **SECTION 2.** Article 14 of Chapter 14 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 14-51.5. Use of deadly physical force against an intruder.**

28 (a) A lawful occupant within a home or other place of residence is justified in using any
29 degree of force that the occupant reasonably believes is necessary, including deadly force,
30 against an intruder to prevent a forcible entry into the home or residence or to terminate the
31 intruder's unlawful entry (i) if the occupant reasonably apprehends that the intruder may kill or
32 inflict serious bodily harm to the occupant or others in the home or residence or (ii) if the
33 occupant reasonably believes that the intruder intends to commit a felony in the home or
34 residence.



1 (b) A lawful occupant within a home or other place of residence does not have a duty to
2 retreat from an intruder in the circumstances described in this section.

3 (c) This section is not intended to repeal, expand, or limit any other defense that may
4 exist under the common law."

5 **SECTION 3.** Article 39 of Chapter 14 of the General Statutes is amended by
6 adding a new section to read:

7 **"§ 14-315.3. Safe storage of firearms.**

8 (a) The following definitions apply in this section:

9 (1) Minor. – A person under 18 years of age who is not emancipated.

10 (2) Unauthorized person. – A person who is not authorized to purchase a firearm
11 under G.S. 14-409.64(b) and (c).

12 (b) Any person who resides on the same premises as a minor or as an unauthorized
13 person, and who owns or possesses a firearm, and who stores or leaves the firearm out of the
14 person's immediate possession or control without having first securely locked the firearm in an
15 appropriate safe storage depository or rendered it incapable of being fired by the use of a safety
16 locking device appropriate to the firearm is guilty of a Class 1 misdemeanor.

17 (c) Nothing in this section shall prohibit a person from carrying a firearm on his or her
18 body or placed in such close proximity that it can be used as easily and quickly as if carried on
19 the body."

20 **SECTION 4.** G.S. 14-315.2 reads as rewritten:

21 **"§ 14-315.2. Warning upon sale or transfer of firearm to protect ~~minor~~ minor and others.**

22 (a) Upon the retail commercial sale or transfer of any firearm, the seller or transferor
23 shall deliver a written copy of ~~G.S. 14-315.1~~ G.S. 14-315.3 to the purchaser or transferee.

24 (b) Any retail or wholesale store, shop, or sales outlet that sells firearms shall
25 conspicuously post at each purchase counter the following warning in block letters not less than
26 one inch in height the phrase: "~~IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM~~
27 ~~THAT CAN BE DISCHARGED IN A MANNER THAT A REASONABLE PERSON~~
28 ~~SHOULD KNOW IS ACCESSIBLE TO A MINOR.~~"IT IS UNLAWFUL FOR A PERSON
29 WHO RESIDES WITH A MINOR OR OTHER PERSON NOT AUTHORIZED TO BUY A
30 FIREARM TO LEAVE A FIREARM OUT OF A PERSON'S IMMEDIATE POSSESSION
31 OR CONTROL WITHOUT FIRST HAVING SECURELY LOCKED THE FIREARM IN A
32 STORAGE DEPOSITORY OR RENDERED IT INCAPABLE OF BEING FIRED."

33 (c) A violation of subsection (a) or (b) of this section is a Class 1 misdemeanor."

34 **SECTION 5.** Article 53A of Chapter 14 of the General Statutes is amended by
35 adding a new section to read:

36 **"§ 14-409.13. Report of loss or theft of firearm.**

37 (a) Any owner of a firearm as defined in G.S. 14-409.60 shall report the loss or theft of
38 the firearm within 48 hours after the discovery of the loss or theft to either (i) the local law
39 enforcement agency having jurisdiction over the location where the loss or theft of the firearm
40 occurred or (ii) the State Bureau of Investigation.

41 (b) A violation of this section is a Class 3 misdemeanor; however, a second or
42 subsequent violation of this section is a Class I felony."

43 **SECTION 6.** G.S. 14-404(a) is amended by adding a new subdivision to read:

44 "(1a) Verified, before the issuance of a permit, that the person has firearm liability
45 insurance pursuant to G.S. 14-409.80."

46 **SECTION 7.** G.S. 14-404 is amended by adding a new subsection to read:

47 "(b1) If the sheriff denies a person's application for a permit under this Article and the
48 grounds for the denial is a prohibition under the national instant criminal background check
49 system (NICS), the sheriff shall notify NICS of the denial of the permit and shall also provide
50 the relevant information regarding the person's application. If the sheriff denies a permit under

1 this Article and the person appeals the denial, the sheriff shall not report the denial unless the
2 court determines that the denial of the permit is reasonable."

3 **SECTION 8.** Article 54B of Chapter 14 of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 14-415.18A. Sheriff to report denial, revocation, or refusal to renew permit to NICS.**

6 If the sheriff denies, revokes, or refuses to renew a person's application for a permit under
7 this Article and the grounds for the denial is a prohibition under the national instant criminal
8 background check system (NICS), the sheriff shall notify NICS of the denial, revocation, or
9 refusal to renew the permit and shall also provide the relevant information regarding the
10 person's application. If the sheriff denies, revokes, or refuses to renew a permit under this
11 Article and the person appeals the denial, revocation, or nonrenewal of the permit, the sheriff
12 shall not report the denial, revocation, or nonrenewal unless the court determines that the
13 denial, revocation, or failure to renew the permit is reasonable."

14 **SECTION 9.** Chapter 14 of the General Statutes is amended by adding a new
15 article to read:

16 "Article 53D.

17 "Transfer of Firearms.

18 "Part 1. Private Transfers of Firearms.

19 **"§ 14-409.60. Private firearms transfers; background check required; penalty; definition.**

20 (a) The following definitions apply in this Article:

21 (1) "Firearms" means a pistol, revolver, or other weapon of any description,
22 loaded or unloaded, from which any shot, bullet, or other missile can be
23 discharged, the length of the barrel of which, not including any revolving,
24 detachable, or magazine breech does not exceed 12 inches. The term does
25 not include firearms for which ammunition is not sold or for which there is
26 reasonable grounds for believing they are not capable of being effectually
27 used.

28 (2) NICS. – The national instant criminal background check system created
29 by Public Law 103-159, known as the federal "Brady Handgun Violence
30 Prevention Act," the relevant portion of which is codified at 18 U.S.C. §
31 922(t).

32 (3) SBI. – State Bureau of Investigation.

33 (4) Transfer. – The sale or delivery of any firearm in this State by a transferor to
34 a transferee. The term includes redemption of a pawned firearm by any
35 person who is not licensed as a federal firearms licensee by the federal
36 Bureau of Alcohol, Tobacco, and Firearms or any of its successor agencies.
37 The term does not include the return or replacement of a firearm that had
38 been delivered to a federal firearms licensee for the sole purpose of repair or
39 customizing.

40 (5) Transferee. – A person who desires to receive or acquire a firearm from a
41 transferor. If a transferee is not a natural person, then each natural person
42 who is authorized by the transferee to possess the firearm after the transfer
43 shall undergo a background check as required by this Part before taking
44 possession of the firearm.

45 **"§ 14-409.61. Background check required for firearms transfers.**

46 (a) This Article applies to all private transfers of firearms. It is unlawful for any person
47 who is not a federally licensed firearms dealer to transfer a firearm except as provided by this
48 Part.

49 (b) Requirements for Private Transfer of Firearms. – No transferor shall transfer or
50 attempt to transfer a firearm to a transferee before the transferor has done all of the following:

1 (1) Require that a background check, in accordance with G.S. 14-409.64, be
2 conducted of the prospective transferee.

3 (2) Obtain approval of a transfer from the SBI after a background check has
4 been requested by a licensed gun dealer, in accordance with G.S. 14-409.64.

5 (c) Background Check by Licensed Gun Dealer. – A prospective firearm transferor
6 who is not a licensed gun dealer shall arrange for a licensed gun dealer to obtain the
7 background check required by this section. A licensed gun dealer who obtains a background
8 check on a prospective transferee shall record the transfer, as provided in G.S. 14-409.75, and
9 retain the records, as provided in G.S. 14-409.76, in the same manner as when conducting a
10 sale, rental, or exchange at retail. The licensed gun dealer shall comply with all State and
11 federal laws, including 18 U.S.C. § 922, as if the gun dealer were transferring the firearm from
12 the gun dealer's inventory to the prospective transferee. A licensed gun dealer who obtains a
13 background check for a prospective firearm transferor pursuant to this section shall provide to
14 the firearm transferor and transferee a copy of the results of the background check, including the
15 SBI's approval or disapproval of the transfer.

16 (d) Dealer Fee. – A licensed gun dealer may charge a fee for services rendered
17 pursuant to this section. The fee shall not exceed ten dollars (\$10.00).

18 (e) Firearm Possession by Transferee. – A prospective firearm transferee under this
19 section shall not accept possession of the firearm unless the prospective firearm transferor has
20 obtained approval of the transfer from the SBI after a background check has been requested
21 by a licensed gun dealer, as described in subsection (c) of this section. A prospective firearm
22 transferee shall not knowingly provide false information to a prospective firearm transferor or
23 to a licensed gun dealer for the purpose of acquiring a firearm.

24 (f) Thirty-Day Approval Period. – If the SBI approves a transfer of a firearm pursuant
25 to this section, the approval shall be valid for 30 calendar days, during which time the
26 transferor and transferee may complete the transfer.

27 (g) Civil Liability. – A person who transfers a firearm in violation of the provisions
28 of this section may be jointly and severally liable for any civil damages proximately caused by
29 the transferee's subsequent use of the firearm.

30 (h) Exemptions. – The provisions of this section do not apply to any of the transfers
31 listed in subdivisions (1) through (9) of this subsection; however, nothing in this
32 subsection shall be interpreted to limit or otherwise alter the applicability of G.S. 14-408.1
33 concerning the unlawful purchase or transfer of firearms.

34 (1) A transfer of an antique firearm, as defined in 18 U.S.C. § 921(a)(16), as
35 amended, or a curio or relic, as defined in 27 C.F.R. § 478.11, as
36 amended.

37 (2) A transfer that is a bona fide gift or loan between immediate family
38 members, that are limited to spouses, parents, children, siblings,
39 grandparents, grandchildren, nieces, nephews, first cousins, aunts, and
40 uncles.

41 (3) A transfer that occurs by operation of law or because of the death of a
42 person for whom the prospective transferor is an executor or administrator
43 of an estate or a trustee of a trust created in a will.

44 (4) A transfer that is temporary and occurs while in the home of the
45 unlicensed transferee if:

46 a. The unlicensed transferee is not prohibited from possessing
47 firearms; and

48 b. The unlicensed transferee reasonably believes that possession of the
49 firearm is necessary to prevent imminent death or serious bodily
50 injury to the unlicensed transferee.

- 1 (5) A temporary transfer of possession without transfer of ownership or a title to
2 ownership, which transfer takes place:
3 a. At a shooting range located in or on premises owned or occupied by
4 a duly incorporated organization organized for conservation
5 purposes or to foster proficiency in firearms;
6 b. At a target firearm shooting competition under the auspices of or
7 approved by a State agency or a nonprofit organization; or
8 c. While hunting, fishing, target shooting, or trapping if (i) the
9 hunting, fishing, target shooting, or trapping is legal in all places
10 where the unlicensed transferee possesses the firearm and (ii) the
11 unlicensed transferee holds any license or permit that is required for
12 such hunting, fishing, target shooting, or trapping.
- 13 (6) A transfer of a firearm that is made to facilitate the repair or maintenance
14 of the firearm; however, this subdivision does not apply unless all parties
15 who possess the firearm as a result of the transfer may legally possess a
16 firearm. For purposes of this subdivision, an owner, manager, or
17 employee of a business that repairs or maintains firearms may rely upon a
18 transferor's statement that the transferor may legally possess a firearm
19 unless the owner, manager, or employee has actual knowledge to the
20 contrary and may return possession of the firearm to the transferor upon
21 completion of the repairs or maintenance without a background check. Unless
22 a transferor of a firearm has actual knowledge to the contrary, the transferor
23 may rely upon the statement of an owner, manager, or employee of a
24 business that repairs or maintains firearms that no owner, manager, or
25 employee of the business is prohibited from possessing a firearm.
- 26 (7) Any temporary transfer that occurs while in the continuous presence of the
27 owner of the firearm.
- 28 (8) A temporary transfer for not more than 72 hours. A person who transfers
29 a firearm pursuant to this subdivision may be jointly and severally liable
30 for damages proximately caused by the transferee's subsequent unlawful
31 use of the firearm.
- 32 (9) A transfer of a firearm from a person serving in the armed forces of the
33 United States who will be deployed outside of the United States within the
34 next 30 days to any immediate family member, that is limited to a spouse,
35 parent, child, sibling, grandparent, grandchild, niece, nephew, first cousin,
36 aunt, and uncle of the person.
- 37 (i) Penalty and Prohibited Possession of Firearm. – A person who violates a provision
38 of this section commits a Class 1 misdemeanor. In addition to any other penalty imposed for
39 the conviction of the misdemeanor, the person shall be prohibited from possessing a firearm
40 for two years, beginning on the date of the person's conviction.
- 41 (j) Report Violation. – When a person is convicted of violating a provision of this
42 section, the clerk of court shall report the conviction to the SBI and to the national instant
43 criminal background check system. The report shall include information indicating that the
44 person is prohibited from possessing a firearm for two years, beginning on the date of the
45 person's conviction.
- 46 **§ 14-409.62. National instant criminal background check system; reporting.**
- 47 (a) Clerk of Court to Report Court Orders Regarding Mental Incapacity and Substance
48 Abuse. – The clerk of the court of every judicial district in the State shall send electronically
49 the following information to the SBI:
- 50 (1) The name of each person who has been adjudicated incompetent and a
51 guardian appointed pursuant to G.S. 35A-1120.

1 (2) The name of each person who has been committed for substance abuse by
2 order of the court to the custody of a facility under G.S. 122C-181 operated
3 by the Department of Health and Human Services; and

4 (3) The name of each person with respect to whom the court has entered an
5 order for involuntary commitment pursuant to Part 7 of Article 5 of Chapter
6 122C of the General Statutes.

7 (b) Report to SBI. – Not more than 48 hours after receiving notification of a person who
8 satisfies the description in subdivision (1), (2), or (3) of subsection (a) of this section, the clerk
9 of court shall report such fact to the SBI.

10 (c) Reason for Report. – Any report made by the clerk of court pursuant to this section
11 shall describe the reason for the report and indicate that the report is made in accordance with
12 18 U.S.C. § 922(g)(4).

13 (d) Cancel Record in Certain Circumstances. – The clerk of court shall take all
14 necessary steps to cancel a record made by the clerk in NICS if the person to whom the record
15 pertains makes a written request to the clerk and no less than three years before the date of the
16 written request any of the following occurred:

17 (1) The court entered an order pursuant to G.S. 35A-1130 terminating a
18 guardianship on a finding that the person is no longer an
19 incapacitated person, if the record in NICS is based on a finding of
20 incapacity.

21 (2) The period of commitment of the most recent order of commitment
22 or recommitment expired, or a court entered an order terminating
23 the person's incapacity or discharging the person from commitment
24 in the nature of habeas corpus, if the record in NICS is based on an
25 order of commitment to the custody of the unit in the Department of
26 Health and Human Services that administers behavioral health
27 programs and services, including those related to mental health and
28 substance abuse; except that the clerk of court shall not cancel any
29 record pertaining to a person with respect to whom two
30 recommitment orders have been entered under Part 8 of Article 5 of
31 Chapter 122C of the General Statutes or discharged on the grounds
32 that further treatment will not be likely to bring about significant
33 improvement in the person's condition; or

34 (3) The record in the case was sealed or the court entered an order
35 discharging the person from commitment in the nature of habeas
36 corpus, if the record in the national instant criminal background
37 check system is based on a court order for involuntary commitment.

38 (e) Correction of Record. – Pursuant to section 102(c) of the federal "NICS
39 Improvement Amendments Act of 2007" (Pub. L. 110-180), a court, upon becoming aware that
40 the basis upon which a record reported by the clerk of court pursuant to subsection (a) of this
41 section does not apply or no longer applies, shall (i) update, correct, modify, or remove the
42 record from any database that the federal or State government maintains and makes available to
43 the national instant criminal background check system, consistent with the rules pertaining to
44 the database and (ii) notify the Attorney General that such basis does not apply or no longer
45 applies.

46 **"§ 14-409.63. National instant criminal background check system; judicial process for**
47 **awarding relief from federal prohibitions; legislative declaration.**

48 (a) Legislative Declaration. – The purpose of this section is to set forth a judicial
49 process whereby a person may apply or petition for relief from federal firearms prohibitions
50 imposed pursuant to 18 U.S.C. § 922(d)(4), as permitted by the federal "NICS Improvement
51 Amendments Act of 2007" (Pub. L. 110-180, Sec. 105).

1 **(b) Eligibility.** – A person to whom the sale or transfer of a firearm or ammunition is
2 prohibited by 18 U.S.C. § 922(d)(4), or who is prohibited from shipping, transporting,
3 possessing, or receiving a firearm or ammunition pursuant to 18 U.S.C. § 922(g)(4) may
4 petition for relief pursuant to this section in any of the following circumstances:

5 **(1)** The person has been adjudicated incompetent and a guardian appointed
6 pursuant to G.S. 35A-1120.

7 **(2)** The person has been committed by order of the court to the custody of the
8 facility under the Department of Health and Human Services that
9 administers behavioral health programs and services, including those related
10 to mental health and substance abuse.

11 **(3)** The court has entered an order for involuntary commitment pursuant to Part
12 7 of Article 5 of Chapter 122C of the General Statutes.

13 **(c) Due Process.** – In a court proceeding pursuant to this section, the petitioner shall
14 have an opportunity to submit the petitioner's own evidence to the court concerning the
15 petition. The court shall review the evidence, and the court shall create and thereafter maintain
16 a record of the proceeding.

17 **(d) Proper Record.** – In determining whether to grant relief to a petitioner pursuant to
18 this section, the court shall receive evidence concerning and shall consider all of the following:

19 **(1)** The circumstances regarding the firearms prohibitions imposed by 18 U.S.C.
20 § 922 (g)(4).

21 **(2)** The petitioner's record which must include at a minimum the petitioner's
22 mental health records and criminal history records.

23 **(3)** The petitioner's reputation which the court shall develop at a minimum
24 through character witness statements, testimony, or other character
25 evidence.

26 **(e) Proper Findings.** – Before granting relief to a petitioner pursuant to this section, the
27 court shall issue findings that (i) the petitioner is not likely to act in a manner that is
28 dangerous to public safety and (ii) granting relief to the petitioner is not contrary to the public
29 interest. If the court denies relief to a petitioner pursuant to this section, the petitioner may
30 petition the Court of Appeals to review the denial, including the record of the denying court. A
31 review of a denial shall be de novo in that the Court of Appeals may, but is not required to, give
32 deference to the decision of the denying court. In reviewing a denial, the Court of Appeals has
33 discretion, but is not required to, receive additional evidence necessary to conduct an adequate
34 review.

35 **§ 14-409.64. National instant criminal background check system; state point of contact;**
36 **grounds for denial of firearm transfer; appeal; rule making; unlawful acts.**

37 **(a)** The SBI may serve as a State point of contact for implementation of 18 U.S.C. §
38 922(t), all federal regulations and applicable guidelines adopted pursuant thereto, and the NICS
39 system.

40 **(b)** The SBI, acting as the State point of contact for implementation of 18 U.S.C. §
41 922(t), shall transmit a request for a background check in connection with the prospective
42 transfer of a firearm to the NICS system and may also search other databases. The SBI shall
43 deny a transfer of a firearm to a prospective transferee if the transfer would violate 18 U.S.C. §
44 922(g) or (n) or result in the violation of any provision of State law, including, but not limited
45 to, G.S. 14-415.1, involving acts which if committed by an adult would constitute a burglary,
46 arson, or any felony involving the use of force or the use of a deadly weapon.

47 **(c)** In addition to the grounds for denial specified in subsection (b) of this section, the
48 SBI shall deny a transfer of a firearm if at any time the SBI transmits the request or searches
49 other databases, information indicates that the prospective transferee:

50 **(1)** Has been arrested for or charged with a crime for which the prospective
51 transferee, if convicted, would be prohibited under State or federal law from

1 purchasing, receiving, or possessing a firearm and either there has been no
2 final disposition of the case or the final disposition is not noted in the other
3 databases.

4 (2) Is the subject of an indictment, an information, or a felony complaint
5 alleging that the prospective transferee has committed a crime punishable by
6 imprisonment for a term exceeding one year as defined in 18 U.S.C. §
7 921(a)(20), as amended, and either there has been no final disposition of the
8 case or the final disposition is not noted in the other databases.

9 (3) Has failed to obtain firearm liability insurance as provided in Part 3 of this
10 Article.

11 (d) The SBI may cooperate with federal, State, and local law enforcement agencies to
12 perform or assist any other law enforcement agency in performing any firearm retrievals and to
13 assist in the prosecution of any rescinded transfers.

14 (e) Upon denial of a firearm transfer, the SBI shall notify the transferor and send notice
15 of the denial to NICS, pursuant to 18 U.S.C. § 922(t). In addition, the SBI shall immediately
16 send notification of the denial and the basis for the denial to the federal, State, and local law
17 enforcement agencies having jurisdiction over the area in which the transferee resides and in
18 which the transferor conducts any business.

19 Upon denial of a firearm transfer, the transferor shall provide the transferee with written
20 information prepared by the SBI concerning the procedure by which the transferee, within 30
21 days after the denial, may request a review of the denial and of the instant criminal background
22 check records that prompted the denial. Within 30 days of receiving such a request, the SBI
23 shall (i) perform a thorough review of the instant criminal background check records that
24 prompted the denial and (ii) render a final administrative decision regarding the denial within
25 30 days after receiving information from the transferee that alleges the transfer was improperly
26 denied.

27 In the case of any transfer denied pursuant to subsection (c) of this section, the inability of
28 the SBI to obtain the final disposition of a case that is no longer pending shall not constitute the
29 basis for the continued denial of the transfer.

30 (f) If the SBI reverses a denial, the SBI shall immediately request that the agency that
31 provided the records prompting the denial make a permanent change to such records if
32 necessary to reflect accurate information. In addition, the SBI shall provide immediate
33 notification of such reversal to all agencies and entities that had been previously notified of a
34 denial pursuant to subsection (e) of this section.

35 (g) If in the course of conducting any background check pursuant to this section,
36 whether the firearms transaction is approved or denied, the SBI obtains information that
37 indicates the prospective transferee is the subject of an outstanding warrant, the SBI shall
38 immediately provide notification of such warrant to the federal, State, and local law
39 enforcement agencies having jurisdiction over the area in which the transferee resides and in
40 which the transferor conducts any business.

41 (h) The Attorney General shall adopt rules as necessary to (i) carry out the duties of the
42 SBI as the State point of contact as those duties are set forth in federal law and assist in
43 implementing 18 U.S.C. § 922(t), all federal regulations and applicable guidelines adopted
44 pursuant thereto, and the NICS system and (ii) ensure the proper maintenance, confidentiality,
45 and security of all records and data provided pursuant to this section.

46 The rules adopted pursuant to this subsection shall include all of the following:

47 (1) Procedures whereby a prospective transferee whose transfer is denied may
48 request a review of the denial and of the instant criminal background check
49 records that prompted the denial.

50 (2) Procedures regarding retention of records obtained or created for purposes of
51 this section or for implementation of 18 U.S.C. § 922(t), except that the SBI

- 1 shall not retain a record for more than 48 hours after the day on which the
2 SBI approves the transfer.
- 3 (3) Procedures and forms adopted by the SBI that request information from and
4 establish proper identification of a prospective transferee and that may
5 correspond with any firearms transaction record required by 18 U.S.C. §
6 922(t). Such procedures and forms shall not preclude any person from
7 making a lawful firearm transfer under this section.
- 8 (4) Procedures for carrying out the duties under this section, including at a
9 minimum all of the following:
- 10 a. That the SBI shall be open for business at least 12 hours per day
11 every calendar day, except Christmas day and Thanksgiving day, in
12 order to transmit the requests for a background check to the NICS
13 system and search other databases.
- 14 b. That the SBI shall provide a toll-free telephone number, for any
15 person calling from within the State, that is operational every day
16 that the office is open for business for the purpose of responding to
17 requests from transferors in accordance with this section.
- 18 c. That the SBI shall employ and train personnel at levels that ensure
19 prompt processing of the reasonably anticipated volume of inquiries
20 received under this section.
- 21 (i) Offenses.. – All of the following are unlawful:
- 22 (1) For any person in connection with the acquisition or attempted acquisition of
23 a firearm from any transferor to willfully make any false or fictitious oral or
24 written statement or to furnish or exhibit any false, fictitious, or
25 misrepresented identification that is intended or likely to deceive such
26 transferor with respect to any fact material to the lawfulness of the sale or
27 other disposition of such firearm under federal or State law.
- 28 (2) For any transferor knowingly to request criminal history record information
29 or a background check under false pretenses or knowingly to disseminate
30 criminal history record information to any person other than the subject of
31 such information.
- 32 (3) For any agent or employee or former agent or employee of the SBI
33 knowingly to violate the provisions of this section.
- 34 (j) Penalties. – Any person who violates the provisions of subsection (j) of this section
35 commits a Class 1 misdemeanor.
- 36 (k) Any transferor who complies with the provisions of this section is not subject to any
37 civil or criminal liability or regulatory sanction that may arise from the lawful transfer or lawful
38 denial of the transfer of a firearm.
- 39 **§ 14-409.65. SBI fee for conducting NCIS background check; establish instant criminal**
40 **background check fund.**
- 41 (a) For purposes of this section the term "fund" means the instant criminal background
42 check cash fund established by this section.
- 43 (b) There is established the instant criminal background check cash fund.
- 44 (c) The SBI shall impose a fee for performing an instant criminal background check
45 pursuant to this section. The amount of the fee shall not exceed the total amount of direct and
46 indirect costs incurred by the SBI in performing the background check.
- 47 (d) The SBI shall transmit all moneys collected pursuant to this section to the State
48 Treasurer, who shall credit the same to the fund. The moneys in the fund shall be subject to
49 annual appropriation by the General Assembly for the direct costs associated with performing
50 background checks pursuant to this section. The State Treasurer may invest any moneys in the
51 fund not expended for the purpose of this section as provided by law. The State Treasurer shall

1 credit any interest and income derived from the deposit and investment of moneys in the fund
2 to the fund.

3 (e) Any unexpended and unencumbered moneys remaining in the fund at the end of a
4 fiscal year shall remain in the fund and shall not be credited to any other fund. To the extent
5 practicable, the SBI shall use any such remaining funds to reduce the amount of the fee
6 established pursuant to subsection (c) of this section.

7 (f) The SBI may contract with a public or private entity for services related to the
8 collection of the fee established pursuant to subsection (c) of this section.

9 (g) On January 15 of each calendar year, the SBI shall report to the House of
10 Representatives and Senate Justice and Public Safety appropriations subcommittees regarding
11 the following:

12 (1) The number of full-time employees used by the SBI in the preceding year
13 for the purpose of performing background checks pursuant to this section.

14 (2) The calculations used by the SBI to determine the amount of the fee imposed
15 pursuant to subsection (c) of this section.

16 "Part 2. Gun Dealers.

17 "**§ 14-409.75. Retail dealers; record; inspection.**

18 Every individual, firm, or corporation engaged within this State in the retail sale, rental, or
19 exchange of firearms, pistols, or revolvers shall keep a record of each pistol or revolver sold,
20 rented, or exchanged at retail. The record shall be made at the time of the transaction in a book
21 kept for that purpose and shall include the name of the person to whom the firearm is sold or
22 rented or with whom exchanged; his age, occupation, residence, and if residing in a city, the
23 street and number therein where the person resides; the make, caliber, and finish of firearm,
24 together with its number and serial letter, if any; the date of the sale, rental, or exchange of the
25 firearm; and the name of the employee or other person making the sale, rental, or exchange.
26 The record book shall be open at all times to the inspection of any duly authorized police
27 officer.

28 "**§ 14-409.76. Failure to keep records; penalty.**

29 Every individual, firm, or corporation who fails to keep the record provided for in
30 G.S. 14-409.75 or who refuses to exhibit such record when requested by a police officer and
31 any purchaser, lessee, or exchanger of a pistol or revolver who in connection with the making
32 of such record gives false information is guilty of a Class 3 misdemeanor.

33 "Part 3 Firearm Liability Insurance Required.

34 "**§ 14-409.80. Liability insurance required for gun owners.**

35 (a) Any person in this State who owns a firearm shall, prior to the ownership, obtain
36 and continuously maintain a policy of liability insurance in an amount not less than one
37 hundred thousand dollars (\$100,000) specifically covering any damages resulting from any
38 negligent or willful acts involving the use of the firearm while it is owned by the person. No
39 firearm shall be transferred in this State unless the transferee at the time of the transfer provides
40 proof that the transferee has complied with the provisions of this Part.

41 (b) For purposes of this Part, a person is deemed to own a firearm if the firearm is lost
42 or stolen until the loss or theft is reported pursuant to G.S. 14-409.13.

43 (c) Any person who owns a firearm on December 1, 2013, shall obtain the insurance
44 required by this Part by January 15, 2014.

45 (d) This section does not apply to any law enforcement officer authorized to carry a
46 firearm.

47 (e) The Department of Insurance shall adopt rules to implement this Part.

48 "Part 4 Large-Capacity Ammunition Magazines.

49 "**§ 14-409.90. Definition.**

50 For purposes of this Part, the term "large capacity magazine" includes all of the following:
51 (i) a fixed or detachable magazine box, drum feed strip, or similar device capable of accepting,

1 or that is designed to be readily converted to accept, more than 15 rounds of ammunition; (ii) a
2 fixed or detachable magazine that is capable of accepting more than eight shotgun shells; and
3 (iii) a detachable magazine, tube, box, drum, feed strip, or similar device that is capable of
4 accepting more than eight shotgun shells when combined with a fixed magazine. The term does
5 not include any of the following: (i) a feeding device that has been permanently altered so that
6 it cannot accommodate more than 15 rounds of ammunition; (ii) an attached tubular device
7 designed to accept and capable of operating only with .22 caliber rimfire ammunition; or (iii) a
8 tubular magazine that is contained in a lever-action firearm.

9 **"§ 14-409.91. Large-capacity magazines prohibited; penalties; exceptions.**

10 (a) It is unlawful for a person to sell, transfer, or possess a large-capacity magazine. A
11 violation of this subsection is a Class 2 misdemeanor; provided however, that a second or
12 subsequent violation of this subsection is a Class 1 misdemeanor.

13 (b) Any person who violates subsection (a) of this section commits a Class I felony
14 under this section if the person possessed a large-capacity magazine during the commission of a
15 felony.

16 (c) A person may possess a large-capacity magazine if the person:

17 (1) Owens the large-capacity magazine on December 1, 2013; and

18 (2) Maintains continuous possession of the large-capacity magazine.

19 (d) If a person who is alleged to have violated subsection (a) of this section asserts that
20 the person is permitted to legally possess a large-capacity magazine pursuant to subsection (c)
21 of this section, the prosecution has the burden of proof to refute the assertion.

22 (e) The offense described in subsection (a) of this section shall not apply to any of the
23 following:

24 (1) An entity, or any employee thereof engaged in the employee's employment
25 duties, that manufactures large-capacity magazines within North Carolina
26 exclusively for transfer, or any federally licensed gun dealer, or any
27 employee thereof engaged in his or her official employment duties, that sells
28 large-capacity magazines exclusively to any of the following:

29 a. A branch of the armed forces of the United States.

30 b. A department, agency, or political subdivision of the State of North
31 Carolina, any other state, or of the United States government.

32 c. A firearms retailer for the purpose of firearms sales conducted
33 outside the State.

34 d. A foreign national government that has been approved for such
35 transfers by the United States government.

36 e. An out-of-state transferee who may legally possess a large-capacity
37 magazine.

38 (2) An employee of any of the following agencies who bears a firearm in the
39 course of the employee's official duties:

40 a. A branch of the armed forces of the United States.

41 b. A department, agency, or political subdivision of the State of North
42 Carolina, any other state, or of the United States government.

43 (3) A person who possesses the magazine for the sole purpose of transporting
44 the magazine to an out-of-state entity on behalf of a manufacturer of
45 large-capacity magazines within North Carolina.

46 **"§ 14-409.92 Identification markings for large-capacity magazines; rules.**

47 (a) A large-capacity magazine that is manufactured in North Carolina on or after
48 December 1, 2013, must include a permanent stamp or marking indicating that the
49 large-capacity magazine was manufactured or assembled after that date. The stamp or marking
50 must be legibly and conspicuously engraved or cast upon the outer surface of the large-capacity
51 magazine.

1 (b) The SBI may adopt rules to implement the provisions of this section, including rules
2 requiring a large-capacity magazine that is manufactured in this State on or after December 1,
3 2013, to bear identifying information in addition to the identifying information described in
4 subsection (a) of this section.

5 (c) A person who manufactures a large-capacity magazine in North Carolina in
6 violation of subsection (a) of this section commits a Class 2 misdemeanor."

7 **SECTION 10.** Chapter 147 of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 9.

10 "Firearms Manufacturer Divestment Act.

11 **"§ 147-95. Definitions.**

12 As used in this Article, the following definitions apply:

13 (1) "Company" means any sole proprietorship, organization, association,
14 corporation, partnership, joint venture, limited partnership, limited liability
15 partnership, limited liability company, or other entity or business
16 association, including all wholly-owned subsidiaries, majority-owned
17 subsidiaries, parent companies, or affiliates of such entities or business
18 associations, that exists for profit-making purposes.

19 (2) "Direct holdings" means all securities of a company that is a firearms
20 manufacturer held directly by the Public Fund or in an account or fund in
21 which the Public Fund owns all shares or interests.

22 (3) "Firearm" as defined in G.S. 14-309.39(2), as well as weapons of mass death
23 and destruction described in G.S. 14-288.8(c).

24 (4) "Firearms manufacturer" means a company that develops, designs, creates,
25 fabricates, assembles, or reassembles firearms or ammunition.

26 (5) "Indirect holdings" means all securities of a company that is a firearms
27 manufacturer held in an account or fund, such as a mutual fund, managed by
28 one or more persons not employed by the Public Fund, in which the Public
29 Fund owns shares or interests together with other investors not subject to the
30 provisions of this Article.

31 (6) "Public Fund" means any funds held by the State Treasurer to the credit of:

32 a. The Teachers' and State Employees' Retirement System.

33 b. The Consolidated Judicial Retirement System.

34 c. The Firemen's and Rescue Workers' Pension Fund.

35 d. The Local Governmental Employees' Retirement System.

36 e. The Legislative Retirement System.

37 f. The Legislative Retirement Fund.

38 g. The North Carolina National Guard Pension Fund.

39 **"§ 147-96. Identification of firearms manufacturers.**

40 (a) Within 90 days of September 1, 2013, the Public Fund shall make its best efforts to
41 identify all firearms manufacturers in which the Public Fund has direct or indirect holdings or
42 could possibly have such holdings in the future. Such efforts shall include, as appropriate:

43 (1) Reviewing and relying, as appropriate in the Public Fund's judgment, on
44 publicly available information regarding firearm manufacturers, including
45 information provided by nonprofit organizations, research firms,
46 international organizations, and government entities.

47 (2) Contacting asset managers contracted by the Public Fund that invest in
48 firearms manufacturers.

49 (3) Contacting other institutional investors that have divested from firearms
50 manufacturers.

1 (b) By the first meeting of the Public Fund following the 90-day period described in
2 subsection (a) of this section, the Public Fund shall assemble a list of all firearm manufacturers
3 in which the Public Fund holds direct or indirect investments.

4 **"§ 147-97. Required actions.**

5 (a) Subject to all applicable laws related to prudent investment, the State Treasurer shall
6 promptly divest all direct and indirect holdings in firearms manufacturers held by the Public
7 Fund.

8 (b) At no time shall the Public Fund acquire direct or indirect holdings in firearms
9 manufacturers."

10 **SECTION 11.** This act becomes effective December 1, 2013, and applies to
11 offenses committed on or after that date.