

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1444
PROPOSED COMMITTEE SUBSTITUTE H1444-PCS50628-RLf-21

Short Title: Limited Hunting Privilege/Nonviolent Felons.

(Public)

Sponsors:

Referred to:

April 13, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A LIMITED HUNTING PRIVILEGE PERMIT THAT AUTHORIZES
3 A PERSON WHO HAS ONLY ONE NONVIOLENT FELONY CONVICTION TO
4 POSSESS AND USE A LONG GUN FOR HUNTING PURPOSES IN CERTAIN
5 CIRCUMSTANCES.

6 The General Assembly of North Carolina enacts:

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

9 "Article 54C.

10 "Limited Hunting Privilege Permit.

11 "§ 14-415.40. Definitions.

12 The following definitions apply to this Article:

- 13 (1) Carry a firearm. – The term includes possession and use of a firearm. The
14 term also includes possession of the appropriate ammunition for the firearm.
15 (2) Firearm. – A weapon that is either a rifle or a shotgun. The term does not
16 include either a rifle or shotgun with a barrel length of less than 18 inches or
17 an overall length of less than 26 inches.
18 (3) Law enforcement officer. – The term includes a law enforcement officer of
19 the North Carolina Wildlife Resources Commission.
20 (4) Permit. – A Limited Hunting Privilege Permit issued pursuant to this Article.
21 (5) Rifle. – A weapon designed or redesigned, made or remade, and intended to
22 be fired from the shoulder and designed or redesigned and made or remade
23 to use the energy of an explosive to fire only a single projectile through a
24 rifle bore for each single pull of the trigger. The term does not include a rifle
25 with a barrel length of less than 18 inches or an overall length of less than 26
26 inches.
27 (6) Shotgun. – A weapon designed or redesigned, made or remade, and intended
28 to be fired from the shoulder and designed or redesigned and made or
29 remade to use the energy of an explosive to fire through a smooth bore either
30 a number of ball shot or a single projectile for each single pull of the trigger.
31 The term does not include a shotgun with a barrel length of less than 18
32 inches or an overall length of less than 26 inches.



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1 **"§ 14-415.41. Limited Hunting Privilege Permit; long gun exception to Felony Firearms**
2 **Act; scope of permit; duty to notify sheriff of address changes, loss, or**
3 **destruction of permit.**

4 (a) Notwithstanding G.S. 14-415.1, a person who has been convicted of a felony but
5 who is issued a limited hunting privilege permit pursuant to this section may own and carry a
6 firearm solely for the purpose of hunting game or related hunting activities. The person shall
7 carry the permit together with valid identification whenever the person is carrying the firearm,
8 shall disclose to any law enforcement officer that the person holds a valid permit and is
9 carrying the firearm when approached or addressed by the officer, and shall display both the
10 permit and the proper identification upon the request of a law enforcement officer.

11 (b) The sheriff shall issue a permit to a person who qualifies for a permit under this
12 Article. The permit shall be valid throughout the State for a period of five years from the date
13 of issuance. However, the permit shall only be valid in North Carolina and no other state, and
14 any person to whom a permit is issued under this section shall be restricted to hunting or related
15 hunting activities in North Carolina.

16 (c) A permit does not authorize a person to own or carry a firearm for any purpose other
17 than those set out in this section.

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

24 **"§ 14-415.42. Criteria to qualify for the issuance of a permit.**

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

27 (1) The applicant has had his or her rights of citizenship restored and has been a
28 resident of the State for one year or longer immediately preceding the filing
29 of the application.

30 (2) The applicant has only one felony conviction and the rights of citizenship
31 lost because of the conviction for that felony were restored pursuant to
32 Chapter 13 of the General Statutes at least 20 years before the date of the
33 permit application. For purposes of this subdivision, multiple felony
34 convictions arising out of the same event or consolidated for sentencing shall
35 count as one felony only.

36 (3) The applicant has not been convicted of any subsequent felony or any
37 subsequent misdemeanor as described in subdivision (b)(6) of this section
38 since the conviction of the original felony under the laws of the United
39 States or the laws of this State or any other state.

40 (4) The applicant has been of good behavior for the period since the date of
41 conviction of the felony conviction.

42 (5) The felony for which the applicant was convicted was not any of the
43 following:

44 a. An offense that includes assault as an essential element of the
45 offense.

46 b. An offense that includes the possession or use of a firearm as an
47 essential element of the offense.

48 c. An offense for which the offender was armed with or used a firearm.

49 d. An offense for which the offender must register under Article 27A of
50 Chapter 14 of the General Statutes.

- 1 (6) The applicant does not suffer from a physical infirmity that prevents the safe
2 handling of a firearm.
- 3 (7) The applicant is not disqualified under subsection (b) of this section.
- 4 (b) The sheriff shall deny a permit to an applicant who:
- 5 (1) Is ineligible to carry a firearm under the provisions of federal or State law.
- 6 (2) Is under indictment or against whom a finding of probable cause exists for a
7 felony.
- 8 (3) Is a fugitive from justice.
- 9 (4) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant,
10 stimulant, or narcotic drug, or any other controlled substance as defined in
11 21 U.S.C. § 802.
- 12 (5) Is or has been discharged from the armed forces under conditions other than
13 honorable.
- 14 (6) Is or has been adjudicated guilty of or received a prayer for judgment
15 continued or suspended sentence for one or more crimes of violence
16 constituting a misdemeanor, including, but not limited to, a violation of a
17 misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a
18 violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1,
19 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1,
20 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2),
21 14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2,
22 14-415.21(b), or 14-415.26(d).
- 23 (7) Has had entry of a prayer for judgment continued for a criminal offense
24 which would disqualify the person from obtaining a permit.
- 25 (8) Is free on bond or personal recognizance pending trial, appeal, or sentencing
26 for a crime which would disqualify the person from obtaining a permit.

27 **§ 14-415.43. Application for a permit.**

28 A person shall apply to the sheriff of the county in which the person resides to obtain a
29 permit. The applicant shall submit to the sheriff all of the following:

- 30 (1) An application on a form provided by the sheriff.
- 31 (2) An affidavit by the applicant stating that the information provided in the
32 application form is true, that the applicant has been of good behavior for the
33 period since the date of conviction of the felony in question, and that the
34 applicant has not been convicted of any subsequent felony or any subsequent
35 misdemeanor described in G.S. 14-415.42(b)(6) since the conviction of the
36 felony in question under the laws of the United States or the laws of this
37 State or any other state.
- 38 (3) A nonrefundable permit fee.

39 **§ 14-415.44. Application form to be provided by sheriff; information to be included in**
40 **application form.**

41 (a) The sheriff shall make permit applications readily available at the office of the
42 sheriff or at other public offices in the sheriff's jurisdiction. The permit application shall be in
43 triplicate, in a form to be prescribed by the Administrative Office of the Courts, and shall
44 include the following information with regard to the applicant: name, address, physical
45 description, signature, date of birth, social security number, military status, the drivers license
46 number or State identification card number of the applicant if used for identification in
47 applying for the permit, and a description and serial number for each firearm the applicant will
48 own or carry pursuant to the permit.

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

1 "CAUTION: Federal law and State law on the ownership and possession of firearms differ.
2 If you are prohibited by federal law from owning or possessing a firearm, you may be
3 prosecuted in federal court. A State permit is not a defense to a federal prosecution."

4 **"§ 14-415.45. Issuance or denial of permit; description of authorized firearms.**

5 (a) Except as permitted under subsection (b) of this section, within 90 days after receipt
6 of the items listed in G.S. 14-415.43 from an applicant, the sheriff shall either issue or deny the
7 permit. The sheriff may conduct any investigation necessary to determine the qualification of
8 the person applying for the permit, including record checks.

9 (b) A person's application for a permit shall be denied only if the applicant fails to
10 qualify under the criteria listed in this Article. If the sheriff denies the application for a permit,
11 the sheriff shall, within 90 days, notify the applicant in writing, stating the grounds for denial.
12 An applicant may appeal the denial, revocation, or nonrenewal of a permit by petitioning a
13 district court judge of the district in which the application was filed. The determination by the
14 court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.
15 The determination by the court shall be final.

16 (c) A permit issued to an applicant shall be updated by the sheriff to reflect any changes
17 in the firearms the applicant intends to own or carry pursuant to the permit. Applications to
18 update permits to reflect changes in authorized firearms shall be made available by the sheriff.
19 The updating of a permit pursuant to this subsection shall be considered a duplicate permit for
20 purposes of the fee authorized to be charged.

21 **"§ 14-415.46. Renewal of permit.**

22 The holder of a permit shall apply to renew the permit at least 30 days prior to its expiration
23 date by filing with the sheriff of the county in which the person resides a renewal form
24 provided by the sheriff's office, a notarized affidavit stating that the permittee remains qualified
25 under the criteria provided in this Article, and a renewal fee. Upon receipt of the completed
26 renewal application and the appropriate payment of fees, the sheriff shall determine if the
27 permittee remains qualified to hold a permit in accordance with the provisions of
28 G.S. 14-415.42. The permittee's criminal history shall be updated. If the permittee applies for a
29 renewal of the permit within 30 days of its expiration date and if the permittee remains
30 qualified to have a permit under G.S. 14-415.42, the sheriff shall renew the permit.

31 **"§ 14-415.47. Permit; sheriff to retain and make available to law enforcement agencies a**
32 **list of permittees.**

33 The permit shall be in a certificate form, as prescribed by the Administrative Office of the
34 Courts, that is approximately the size of a North Carolina drivers license. It shall bear the
35 signature, name, address, date of birth, social security number of the permittee, the drivers
36 license number or State identification card number used in applying for the permit, and a
37 description and serial number of the authorized firearms. The permit shall also contain a
38 warning substantially as follows: "This Is Not a Hunting License."

39 The sheriff shall maintain a listing of those persons who are issued a permit and any
40 pertinent information regarding the issued permit. The permit information shall be available
41 upon request to all State and local law enforcement agencies.

42 Within five days of the date a permit is issued or updated pursuant to G.S. 14-415.45(c), the
43 sheriff shall send a copy of the permit to the State Bureau of Investigation. The State Bureau of
44 Investigation shall make this information available to law enforcement officers and clerks of
45 court on a statewide system.

46 **"§ 14-415.48. Revocation or suspension of permit.**

47 (a) The sheriff of the county where the permit was issued or the sheriff of the county
48 where the person resides may revoke a permit subsequent to a hearing for any of the following
49 reasons:

- 50 (1) Fraud or intentional or material misrepresentation in the obtaining of a
51 permit.

- 1 (2) Misuse of a permit, including lending or giving a permit to another person,
- 2 duplicating a permit, or using a permit with the intent to unlawfully cause
- 3 harm to a person or property.
- 4 (3) The doing of an act or existence of a condition which would have been
- 5 grounds for the denial of the permit by the sheriff.
- 6 (4) The violation of any of the terms of this Article.
- 7 (5) The applicant is adjudicated guilty of or receives a prayer for judgment
- 8 continued for a crime which would have disqualified the applicant from
- 9 initially receiving a permit.

10 A permittee may appeal the revocation or nonrenewal of a permit by petitioning a district
 11 court judge of the district in which the applicant resides. The determination by the court, on
 12 appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.

13 (b) The court may suspend a permit as part of and for the duration of any orders
 14 permitted under Chapter 50B of the General Statutes.

15 **"§ 14-415.49. Fees.**

16 The permit fees assessed under this Article are payable to the sheriff. The sheriff shall
 17 transmit the proceeds of these fees to the county finance officer to be remitted or credited by
 18 the county finance officer in accordance with the provisions of this section. Except as otherwise
 19 provided by this section, the permit fees are as follows:

20

<u>Application fee.....</u>	<u>\$25.00</u>
<u>Renewal fee.....</u>	<u>\$20.00</u>
<u>Duplicate permit fee.....</u>	<u>\$15.00</u>

24

25 The county finance officer shall remit ten dollars (\$10.00) of each new application fee and
 26 five dollars (\$5.00) of each renewal fee assessed under this section to the North Carolina
 27 Department of Justice for the costs of State and federal criminal record checks performed in
 28 connection with processing applications and for the implementation of the provisions of this
 29 Article. The remaining fifteen dollars (\$15.00) of each application or renewal fee and the
 30 fifteen dollars (\$15.00) for the duplicate permit fee shall be used by the sheriff to pay the costs
 31 of administering this Article and for other law enforcement purposes. The county shall expend
 32 the restricted funds for these purposes only.

33 **"§ 14-415.50. No liability of sheriff.**

34 A sheriff who issues or refuses to issue a permit under this Article shall not incur any civil
 35 or criminal liability as the result of the performance of the sheriff's duties under this Article.

36 **"§ 14-415.51. Violations of this Article; penalties.**

37 (a) A person who has been issued a valid permit who is found to be carrying a firearm
 38 without the permit in the person's possession, who is carrying a firearm other than one
 39 described on the permit, or who fails to disclose to any law enforcement officer that the person
 40 holds a valid permit and is carrying a firearm, as required by G.S. 14-415.41, shall be guilty of
 41 an infraction for the first offense and shall be punished in accordance with G.S. 14-3.1. In lieu
 42 of paying a fine for the first offense, the person may surrender the permit. Subsequent offenses
 43 for failing to carry a valid permit, for carrying a firearm not authorized by the permit, or for
 44 failing to make the necessary disclosures to a law enforcement officer as required by
 45 G.S. 14-415.41 shall be punishable as a Class 2 misdemeanor.

46 (b) Any person who makes any false affidavit, or who knowingly swears or affirms
 47 falsely, to any matter or thing required by the terms of this Article to be sworn to or affirmed
 48 shall be guilty of perjury which shall be punishable as a Class I felony.

49 **"§ 14-415.52. Ineligible for permit if convicted of second or subsequent felony or of**
 50 **certain misdemeanors.**

1 No person who is convicted of two or more felonies or a misdemeanor described in
2 G.S. 14-415.42(b)(6) is eligible for a permit under this Article. If a person who is issued a
3 permit under this Article is convicted of a second or subsequent felony, or a misdemeanor
4 described in G.S. 14-415.42(b)(6), then the person's permit shall be revoked as provided by
5 G.S. 14-415.48, and the person shall be ineligible to receive another permit under this Article."

6 **SECTION 2.** G.S. 14-415.1 reads as rewritten:

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

8 (a) ~~It~~Except as otherwise provided by law, it shall be unlawful for any person who has
9 been convicted of a felony to purchase, own, possess, or have in his custody, care, or control
10 any firearm or any weapon of mass death and destruction as defined in G.S. 14-288.8(c). For
11 the purposes of this section, a firearm is (i) any weapon, including a starter gun, which will or
12 is designed to or may readily be converted to expel a projectile by the action of an explosive, or
13 its frame or receiver, or (ii) any firearm muffler or firearm silencer. This section does not apply
14 to an antique firearm, as defined in G.S. 14-409.11.

15 Every person violating the provisions of this section shall be punished as a Class G felon.

16 (a1) A person who has been convicted of a felony but who has had his or her citizenship
17 rights restored pursuant to Chapter 13 of the General Statutes and who obtains a limited
18 hunting privilege permit as provided by Article 54C of Chapter 14 of the General Statutes may
19 own or carry a firearm as defined by G.S. 14-415.40.

20 (b) Prior convictions which cause disenfranchisement under this section shall only include:

- 21 (1) Felony convictions in North Carolina that occur before, on, or after
22 December 1, 1995; and
- 23 (2) Repealed by Session Laws 1995, c. 487, s. 3, effective December 1, 1995.
- 24 (3) Violations of criminal laws of other states or of the United States that occur
25 before, on, or after December 1, 1995, and that are substantially similar to
26 the crimes covered in subdivision (1) which are punishable where committed
27 by imprisonment for a term exceeding one year.

28 When a person is charged under this section, records of prior convictions of any offense,
29 whether in the courts of this State, or in the courts of any other state or of the United States,
30 shall be admissible in evidence for the purpose of proving a violation of this section. The term
31 "conviction" is defined as a final judgment in any case in which felony punishment, or
32 imprisonment for a term exceeding one year, as the case may be, is permissible, without regard
33 to the plea entered or to the sentence imposed. A judgment of a conviction of the defendant or a
34 plea of guilty by the defendant to such an offense certified to a superior court of this State from
35 the custodian of records of any state or federal court shall be prima facie evidence of the facts
36 so certified.

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

44 **SECTION 3.** This act becomes effective December 1, 2009, and applies to
45 offenses committed on or after that date.