

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 582
PROPOSED COMMITTEE SUBSTITUTE H582-PCS80231-RK-60

Short Title: Amend Felony Firearms Act/Increase Penalties.

(Public)

Sponsors:

Referred to:

April 4, 2011

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CERTAIN VIOLATIONS OF
THE FELONY FIREARMS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-415.1 reads as rewritten:

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

(a) It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in his custody, care, or control any ~~firearm or firearm~~, any weapon of mass death and destruction as defined in ~~G.S. 14-288.8(e)~~. G.S. 14-288.8(c), any ammunition, or any electric weapon or electric device intended to be used as a weapon. It is also unlawful for any person who has been convicted of a felony to carry a concealed weapon, including a tear gas gun or similar device intended to be used as a weapon.

For the purposes of this section, a firearm is (i) any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer. This section does not apply to an antique firearm, as defined in G.S. 14-409.11.

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

(a1) Unless the conduct is covered under some other provision of law providing greater punishment:

(1) A person who violates this section is guilty of a Class G felony.

(2) A person who violates this section and discharges the firearm, electric weapon or device, or any other weapon described in subsection (a) of this section is guilty of a Class E felony.

(3) A person who violates this section is guilty of a Class D felony if the violation results in serious injury to a person.

(4) A person who violates this section is guilty of a Class C felony if the violation results in serious bodily injury to a person.

(a2) For the purposes of this section, "serious bodily injury" has the same definition as that term is defined in G.S. 14-32.4(a), and "serious injury" means a lesser degree of physical harm than serious bodily injury, which includes, but is not limited to, bruises, lacerations, sprains, broken bones, or any other indications of physical injury of a type which do not constitute serious bodily injury."

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



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

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

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

24 (d) This section does not apply to a person whose firearms rights have been restored
25 under G.S. 14-415.4, unless the person is convicted of a subsequent felony after the petition to
26 restore the person's firearms rights is granted.

27 (e) This section does not apply and there is no disentitlement under this section if the
28 felony conviction is a violation under the laws of North Carolina, another state, or the United
29 States that pertains to antitrust violations, unfair trade practices, or restraints of trade."

30 **SECTION 2.** This act becomes effective December 1, 2011, and applies to
31 offenses committed on or after that date.