

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE PRINCIPAL CLERK

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HOUSE DRH70182-MD-30A (01/18)

Short Title: No Possession of Firearms/Undocumented Aliens. (Public)

Sponsors: Representative McNeill.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT PERSONS WHO ARE NOT LAWFULLY PRESENT IN THIS STATE FROM POSSESSING FIREARMS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 64 of the General Statutes is amended by adding a new section to read:

"§ 64-6. Possession of firearms by persons who are not lawfully present prohibited.

(a) Prohibited Conduct. – It shall be unlawful for a person who is not lawfully present in the United States to possess a firearm in this State. For purposes of this section, a person is not lawfully present in the United States unless the person (i) holds valid documentation issued by or under the authority of the United States government that demonstrates the applicant's legal presence in the United States or (ii) has otherwise been permitted to remain in the United States by the federal government.

(b) Penalty. – A violation of this section shall be a Class I Felony.

(c) Seizure of Unlawfully Possessed Firearms. – Upon a determination that probable cause exists to believe that a firearm is in the possession of a person in violation of this section, all sheriffs and law enforcement officers are authorized to seize the unlawfully possessed firearm in accordance with applicable State law. Any law enforcement agency in possession of the firearm shall retain the item pending a disposition order from a district or superior court judge."

SECTION 2. G.S. 14-269.1 reads as rewritten:

"§ 14-269.1. Confiscation and disposition of deadly weapons.

Upon conviction of any person for violation of G.S. 14-269, G.S. 14-269.7, G.S. 64-6, or any other offense involving the use of a deadly weapon of a type referred to in G.S. 14-269, the deadly weapon with reference to which the defendant shall have been convicted shall be ordered confiscated and disposed of by the presiding judge at the trial in one of the following ways in the discretion of the presiding judge.

(1) By ordering the weapon returned to its rightful owner, but only when such owner is a person other than the defendant and has filed a petition for the recovery of such weapon with the presiding judge at the time of the defendant's conviction, and upon a finding by the presiding judge that petitioner is entitled to possession of same and that he was unlawfully deprived of the same without his consent.

(2), (3) Repealed by Session Laws 1994, Ex. Sess., c. 16, s. 2.



- 1 (4) By ordering such weapon turned over to the sheriff of the county in which
- 2 the trial is held or his duly authorized agent to be destroyed. The sheriff shall
- 3 maintain a record of the destruction thereof.
- 4 (4a) Repealed by Session Laws 2005-287, s. 3, effective August 22, 2005.
- 5 (4b) By ordering the weapon turned over to a law enforcement agency in the
- 6 county of trial for (i) the official use of the agency or (ii) sale, trade, or
- 7 exchange by the agency to a federally licensed firearm dealer in accordance
- 8 with all applicable State and federal firearm laws. The court may order a
- 9 disposition of the firearm pursuant to this subdivision only upon the written
- 10 request of the head or chief of the law enforcement agency and only if the
- 11 firearm has a legible, unique identification number. If the law enforcement
- 12 agency sells the firearm, then the proceeds of the sale shall be remitted to the
- 13 appropriate county finance officer as provided by G.S. 115C-452 to be used
- 14 to maintain free public schools. The receiving law enforcement agency shall
- 15 maintain a record and inventory of all firearms received pursuant to this
- 16 subdivision.
- 17 (5) By ordering such weapon turned over to the North Carolina State Crime
- 18 Laboratory's weapons reference library for official use by that agency. The
- 19 State Bureau of Investigation shall maintain a record and inventory of all
- 20 such weapons received.
- 21 (6) By ordering such weapons turned over to the North Carolina Justice
- 22 Academy for official use by that agency. The North Carolina Justice
- 23 Academy shall maintain a record and inventory of all such weapons
- 24 received."

25 **SECTION 3.** This act becomes effective December 1, 2013, and applies to
26 offenses committed on or after that date.