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SENATE DRS45336-LH-19A (12/01)

Short Title: Homeland Security Patriot Act. (Public)

Sponsors: Senators Tarte and Rabin (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO STRENGTHEN HOMELAND SECURITY BY ESTABLISHING THE
3 HOMELAND SECURITY UNRESTRICTED CONCEALED HANDGUN PERMIT.

4 The General Assembly of North Carolina enacts:

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

7 "Article 54C.

8 "Homeland Security Unrestricted Concealed Handgun Permit.

9 **"§ 14-415.40. Definitions.**

10 The following definitions apply to this Article:

- 11 (1) Carry a concealed handgun. – The term includes possession of a concealed
12 handgun.
13 (2) Handgun. – A firearm that has a short stock and is designed to be held and
14 fired by the use of a single hand.
15 (3) Permit. – A homeland security unrestricted concealed handgun permit issued
16 in accordance with the provisions of this Article.

17 **"§ 14-415.41. Permit; scope of permit.**

18 (a) There is established a homeland security unrestricted concealed handgun permit that
19 shall be available only to persons who have a concealed handgun permit issued in accordance
20 with Article 54B of this Chapter and who also satisfy all of the additional criteria required by
21 this Article.

22 (b) Except as provided otherwise by G.S. 14-269.4 and federal law, a person who is
23 issued a permit pursuant to this Article may carry a concealed handgun anywhere in the State,
24 including property on which a notice is posted prohibiting the carrying of a concealed handgun,
25 and has the same exemption from all State prohibitions and restrictions regarding the carrying
26 of a concealed handgun that State and local law enforcement officers have when acting in the
27 discharge of their official duties.

28 (c) The sheriff shall issue a permit and a badge to a person who qualifies for a permit
29 under this Article. The permit shall be valid throughout the State for a period of five years from
30 the date of issuance.

31 (d) The person shall carry the permit and the badge together with valid identification
32 whenever the person is carrying a concealed handgun. The person shall disclose to any law
33 enforcement officer that the person holds a valid permit and is carrying a concealed handgun
34 when approached or addressed by the officer, and shall display the permit, the badge, and the
35 proper identification upon the request of a law enforcement officer.



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1 (e) A person who is issued a permit shall notify the sheriff who issued the permit of any
2 change in the person's permanent address within 30 days after the change of address. If a permit
3 or badge is lost or destroyed, the person to whom the permit was issued shall notify the sheriff
4 who issued the permit of the loss or destruction of the permit or badge. A person may obtain a
5 duplicate permit or badge by submitting to the sheriff a notarized statement that the permit or
6 badge was lost or destroyed and paying the required duplicate permit fee.

7 (f) It is unlawful for a person, with or without a permit, to carry a concealed handgun
8 while consuming alcohol or at any time while the person has remaining in the person's body
9 any alcohol or in the person's blood a controlled substance previously consumed, but a person
10 does not violate this condition if a controlled substance in the person's blood was lawfully
11 obtained and taken in therapeutically appropriate amounts or if the person is on the person's
12 own property.

13 **"§ 14-415.42. Criteria to qualify for the issuance of a permit.**

14 (a) An applicant must satisfy all of the criteria listed in this subsection within a period a
15 period of 18 months of the date of the application to qualify for a permit under this Article. The
16 sheriff shall issue a permit to any applicant who qualifies under all of the following criteria,
17 provided the applicant also complies with the requirement that the criteria be met within the
18 18-month time frame:

- 19 (1) The applicant is a citizen of the United States and has been a resident of the
20 State 30 days or longer immediately preceding the filing of the application.
- 21 (2) The applicant is 21 years of age or older.
- 22 (3) The applicant has a concealed handgun permit that was issued in accordance
23 with Article 54B of this Chapter.
- 24 (4) The applicant has successfully completed the training requirements set out in
25 G.S. 14-415.43.
- 26 (5) A background check of the applicant is conducted by the Federal Bureau of
27 Investigation, the Bureau of Alcohol, Tobacco, and Firearms, or the
28 Department of Defense.
- 29 (6) A mental health evaluation of the applicant is conducted by a physician who
30 certifies that the applicant is not disqualified from receiving a permit by any
31 of the mental health criteria set out in subsection (b) of this section.
- 32 (7) The applicant is not disqualified under subsection (b) of this section.

33 (b) The sheriff shall deny a permit to an applicant who:

- 34 (1) Is ineligible to own, possess, or receive a firearm under the provisions of
35 State or federal law.
- 36 (2) Is under indictment or against whom a finding of probable cause exists for a
37 felony.
- 38 (3) Has been adjudicated guilty in any court of a felony, unless (i) the felony is
39 an offense that pertains to antitrust violations, unfair trade practices, or
40 restraints of trade or (ii) the person's firearms rights have been restored
41 pursuant to G.S. 14-415.4.
- 42 (4) Is a fugitive from justice.
- 43 (5) Is an unlawful user of, or addicted to, marijuana, alcohol, or any depressant,
44 stimulant, or narcotic drug, or any other controlled substance as defined in
45 21 U.S.C. § 802.
- 46 (6) Is currently, or has been previously adjudicated by a court or
47 administratively determined by a governmental agency whose decisions are
48 subject to judicial review to be, lacking mental capacity or mentally ill.
49 Receipt of previous consultative services or outpatient treatment alone shall
50 not disqualify an applicant under this subdivision.

- 1 (7) Is or has been discharged from the Armed Forces of the United States under
2 conditions other than honorable.
- 3 (8) Is or has been adjudicated guilty of or received a prayer for judgment
4 continued or suspended sentence for one or more crimes of violence
5 constituting a misdemeanor, including, but not limited to, a violation of a
6 misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a
7 violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1,
8 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1,
9 14-277.2, 14-277.3A, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2),
10 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14,
11 14-288.20A, 14-318.2, 14-415.21(b), 14-415.26(d), or former G.S. 14-277.3.
- 12 (9) Has had entry of a prayer for judgment continued for a criminal offense that
13 would disqualify the person from obtaining a concealed handgun permit.
- 14 (10) Is free on bond or personal recognizance pending trial, appeal, or sentencing
15 for a crime that would disqualify him or her from obtaining a concealed
16 handgun permit.
- 17 (11) Has been convicted of an impaired driving offense under G.S. 20-138.1,
18 20-138.2, or 20-138.3 within three years prior to the date on which the
19 application is submitted.

20 (c) An applicant shall not be ineligible to receive a permit under subdivision (6) of
21 subsection (b) of this section because of an adjudication of mental incapacity or illness or an
22 involuntary commitment to mental health services if the individual's rights have been restored
23 under G.S. 122C-54.1.

24 **"§ 14-415.43. Training requirements.**

25 (a) No person shall be issued a permit unless the person has successfully completed an
26 approved advance carry course and a simunition class within 18 months of the date of the
27 application for the permit. The North Carolina Criminal Justice Education and Training
28 Standards Commission shall prepare and publish general guidelines for courses and
29 qualifications of instructors that would satisfy the requirements of this section. An approved
30 course shall be any course that satisfies the requirements of this section and is certified or
31 sponsored by:

- 32 (1) The North Carolina Criminal Justice Education and Training Standards
33 Commission,
- 34 (2) The National Rifle Association, or
- 35 (3) A law enforcement agency, college, private or public institution or
36 organization, or firearms training school, taught by instructors certified by
37 the North Carolina Criminal Justice Education and Training Standards
38 Commission or the National Rifle Association.

39 (b) Every instructor of an approved course shall file a copy of the firearms course
40 description, outline, and proof of certification annually, or upon modification of the course if
41 more frequently, with the North Carolina Criminal Justice Education and Training Standards
42 Commission.

43 **"§ 14-415.44. Application for a permit; fingerprints.**

44 (a) A person shall apply to the sheriff of the county in which the person resides to
45 obtain a permit. The applicant shall submit to the sheriff all of the following:

- 46 (1) An application, completed under oath, on a form provided by the sheriff.
- 47 (2) A nonrefundable permit fee.
- 48 (3) A full set of fingerprints of the applicant administered by the sheriff.
- 49 (4) An original certificate of completion for both of the following:
- 50 a. An approved advance carry course adopted and distributed by the
51 North Carolina Criminal Justice Education and Training Standards

1 Commission, signed by the certified instructor of the course attesting
2 to the successful completion of the course by the applicant that shall
3 indicate the advanced shooting techniques and application of those
4 skills that are covered by the course and verify that the applicant is
5 competent with a handgun at that advanced level.

6 b. An approved simunition class adopted and distributed by the North
7 Carolina Criminal Justice Education and Training Standards
8 Commission, signed by the certified instructor of the course attesting
9 to the successful completion of the course by the applicant that shall
10 indicate the scenario-based training and hands-on experience
11 provided by the class and verify that the applicant is competent with
12 the various equipment and technologies used in the class and
13 performed satisfactorily in the reality-based training portion of the
14 class.

15 (5) A release, in a form to be prescribed by the Administrative Office of the
16 Courts, that authorizes and requires disclosure to the sheriff by the physician
17 who conducts the mental health evaluation of the applicant and any records
18 concerning the mental health or capacity of the applicant to be used for the
19 sole purpose of documenting the mental health evaluation and whether the
20 applicant is disqualified for a permit under the provisions of G.S. 14-415.42.
21 This provision does not prohibit submitting information related to
22 involuntary commitment to the National Instant Criminal Background Check
23 System (NICS).

24 (b) The sheriff shall submit the fingerprints to the State Bureau of Investigation to be
25 used for the background check. The cost of processing the set of fingerprints shall be charged
26 to an applicant as provided by G.S. 14-415.50.

27 **§ 14-415.14. Application form to be provided by sheriff; information to be included in**
28 **application form.**

29 (a) The sheriff shall make permit applications readily available at the office of the
30 sheriff or at other public offices in the sheriff's jurisdiction. The permit application shall be in
31 triplicate, in a form to be prescribed by the State Bureau of Investigation, and shall include the
32 following information with regard to the applicant: name, address, physical description,
33 signature, date of birth, Social Security number, military status, law enforcement status, the
34 drivers license number or State identification card number of the applicant if used for
35 identification in applying for the permit, and the permit number of the person's concealed
36 handgun permit.

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

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

41 (c) Any person or entity who is presented by the applicant or by the sheriff with an
42 original or photocopied release form as described in G.S. 14-415.44(a)(5) shall promptly
43 disclose to the sheriff any records concerning the mental health or capacity of the applicant
44 who signed the form and authorized the release of the records.

45 **§ 14-415.46. Issuance or denial of permit.**

46 (a) Except as permitted under subsection (b) of this section, within 45 days after receipt
47 of the items listed in G.S. 14-415.44 from an applicant, and receipt of the required evaluation
48 and records concerning the mental health or capacity of the applicant, the sheriff shall either
49 issue or deny the permit. The sheriff may conduct any investigation necessary to determine the
50 qualification or competency of the person applying for the permit, including record checks.

1 **(b)** A person's application for a permit shall be denied only if the applicant fails to
2 qualify under the criteria listed in this Article. If the sheriff denies the application for a permit,
3 the sheriff shall, within 45 days, notify the applicant in writing, stating the grounds for denial.
4 An applicant may appeal the denial, revocation, or nonrenewal of a permit by petitioning a
5 district court judge of the district in which the application was filed. The determination by the
6 court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.
7 The determination by the court shall be final.

8 **"§ 14-415.47. Renewal of permit.**

9 **(a)** At least 45 days prior to the expiration date of a permit, the sheriff of the county
10 where the permit was issued shall send a written notice to the permittee explaining that the
11 permit is about to expire and including information about the requirements for renewal of the
12 permit. The notice shall be sent by first-class mail to the last known address of the permittee.
13 Failure to receive a renewal notice shall not relieve a permittee of requirements imposed in this
14 section for renewal of the permit.

15 **(b)** There shall be no automatic renewal of the permit. All of the criteria set out in
16 G.S. 14-415.42 shall be satisfied and verified again in the same manner as required for the
17 original permit application. The holder of a permit shall apply to renew the permit within the
18 90-day period prior to its expiration date by filing with the sheriff of the county in which the
19 person resides a renewal form provided by the sheriff's office.

20 **(c)** Upon receipt of the completed renewal application and the appropriate payment of
21 fees, the sheriff shall determine if the permittee remains qualified to hold a permit in
22 accordance with the provisions of G.S. 14-415.42. The permittee's criminal history shall be
23 updated, including with another inquiry by the Federal Bureau of Investigation, Bureau of
24 Alcohol, Tobacco, and Firearms, or the Department of Defense as appropriate.

25 **(d)** No fingerprints shall be required for a renewal permit if the applicant's fingerprints
26 were submitted to the State Bureau of Investigation after June 30, 2001, on the Automated
27 Fingerprint Information System (AFIS) as prescribed by the State Bureau of Investigation.

28 **"§ 14-415.48. Permit and badge; sheriff to retain a list of permittees; confidentiality of list**
29 **and permit application information; availability to law enforcement agencies.**

30 **(a)** The permit shall be in a certificate form, as prescribed by the State Bureau of
31 Investigation, that is approximately the size of a North Carolina drivers license. It shall bear the
32 signature, name, address, date of birth, and the drivers license identification number used in
33 applying for the permit. A person who is issued a permit under this section shall also be issued
34 a badge indicating the person has a homeland security unrestricted concealed handgun permit,
35 as prescribed by the State Bureau of Investigation.

36 **(b)** The sheriff shall maintain a listing, including the identifying information, of those
37 persons who are issued a permit under this section. Within five days of the date a permit is
38 issued, the sheriff shall send a copy of the permit to the State Bureau of Investigation.

39 **(c)** Except as provided otherwise by this subsection, the list of permit holders and the
40 information collected by the sheriff to process an application for a permit are confidential and
41 are not a public record under G.S. 132-1. The sheriff shall make the list of permit holders and
42 the permit information available upon request to all State and local law enforcement agencies.
43 The State Bureau of Investigation shall make the list of permit holders and the information
44 collected by the sheriff to process an application for a permit available to law enforcement
45 officers and clerks of court on a statewide system.

46 **"§ 14-415.49. 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 and material misrepresentation in the obtaining of a
51 permit.

- (2) Misuse of a permit, including lending or giving a permit or a duplicate permit to another person, materially altering a permit, or using a permit with the intent to unlawfully cause harm to a person or property. It shall not be considered misuse of a permit to provide a duplicate of the permit to a vender for record-keeping purposes.
- (3) The doing of an act or existence of a condition that would have been grounds for the denial of the permit by the sheriff.
- (4) The violation of any of the terms of this Article.

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

(b) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides shall revoke a permit of any permittee who is adjudicated guilty of or receives a prayer for judgment continued for a crime that would have disqualified the permittee from initially receiving a permit. Upon determining that a permit should be revoked pursuant to this subsection, the sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.

Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.

A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides. The determination by the court, on appeal, shall be limited to whether the permittee was adjudicated guilty of or received a prayer for judgment continued for a crime that would have disqualified the permittee from initially receiving a permit. Revocation of the permit is not stayed pending appeal.

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

§ 14-415.50. Fees.

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

<u>Application fee</u>	<u>\$80.00</u>
<u>Renewal fee</u>	<u>\$75.00</u>
<u>Duplicate permit fee</u>	<u>\$15.00</u>

The county finance officer shall remit forty-five dollars (\$45.00) of each new application fee and forty dollars (\$40.00) of each renewal fee assessed under this subsection to the North Carolina Department of Public Safety for the costs of State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article. The remaining thirty-five dollars (\$35.00) of each application or renewal fee shall be used by the sheriff to pay the costs of administering this Article and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only.

(b) An additional fee, not to exceed ten dollars (\$10.00), shall be collected by the sheriff from an applicant for a permit to pay for the costs of processing the applicant's fingerprints, if fingerprints were required to be taken. This fee shall be retained by the sheriff.

§ 14-415.51. No liability of sheriff.

1 A sheriff who issues or refuses to issue a permit to carry a concealed handgun under this
2 Article shall not incur any civil or criminal liability as the result of the performance of the
3 sheriff's duties under this Article.

4 **"§ 14-415.52. Violations of this Article punishable as an infraction.**

5 (a) A person who has been issued a valid permit who is found to be carrying a
6 concealed handgun without the permit in the person's possession or who fails to disclose to any
7 law enforcement officer that the person holds a valid permit and is carrying a concealed
8 handgun, as required by G.S. 14-415.41, shall be guilty of an infraction and shall be punished
9 in accordance with G.S. 14-3.1. In lieu of paying a fine, the person may surrender the permit.

10 (b) A person who has been issued a valid permit who is found to be carrying a
11 concealed handgun in violation of subsection (f) of G.S. 14-415.41 shall be guilty of a Class 1
12 misdemeanor.

13 (c) A person who violates the provisions of this Article other than as set forth in
14 subsection (a) or (b) of this section is guilty of a Class 2 misdemeanor."

15 **SECTION 2.** G.S. 14-269(b) is amended by adding a new subdivision to read:

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

17 ...

18 (7) Any person who has a civilian marshal handgun permit issued pursuant to
19 Article 54C of this Chapter, provided the weapon is a handgun."

20 **SECTION 3.** G.S. 14-269.4 reads as rewritten:

21 **"§ 14-269.4. Weapons on certain State property and in courthouses.**

22 (a) It shall be unlawful for any person to possess, or carry, whether openly or
23 concealed, any deadly weapon, not used solely for instructional or officially sanctioned
24 ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western
25 Residence of the Governor, or on the grounds of any of these buildings, and in any building
26 housing any court of the General Court of Justice. If a court is housed in a building containing
27 nonpublic uses in addition to the court, then this prohibition shall apply only to that portion of
28 the building used for court purposes while the building is being used for court purposes.

29 (b) This section shall not apply to any of the following:

30 (1) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997.

31 (1a) ~~A~~ Except as provided in subdivision (1b) of this section, a person exempted
32 by the provisions of G.S. 14-269(b).

33 (1b) A person who has a homeland security unrestricted concealed handgun
34 permit issued pursuant to Article 54B of this Chapter may carry a concealed
35 handgun in the State Capitol Building, the Executive Mansion, the Western
36 Residence of the Governor, or on the grounds of any of these buildings. A
37 person with a homeland security unrestricted concealed handgun permit is
38 prohibited from carrying a concealed handgun in any building housing any
39 court of the General Court of Justice as provided in subsection (a) of this
40 section, except that the person may have a firearm in a closed compartment
41 or container within the person's locked vehicle or in a locked container
42 securely affixed to the person's vehicle. The person may unlock the vehicle
43 to enter or exit the vehicle provided the firearm remains in the closed
44 compartment at all times and the vehicle is locked immediately following
45 the entrance or exit.

46 (2) through (4) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997.

47 (4a) Any person in a building housing a court of the General Court of Justice in
48 possession of a weapon for evidentiary purposes, to deliver it to a
49 law-enforcement agency, or for purposes of registration.

50 (4b) Any district court judge or superior court judge who carries or possesses a
51 concealed handgun in a building housing a court of the General Court of

- 1 Justice if the judge is in the building to discharge his or her official duties
- 2 and the judge has a concealed handgun permit issued in accordance with
- 3 Article 54B of this Chapter or considered valid under G.S. 14-415.24.
- 4 (4c) Firearms in a courthouse, carried by detention officers employed by and
- 5 authorized by the sheriff to carry firearms.
- 6 (4d) Any magistrate who carries or possesses a concealed handgun in any portion
- 7 of a building housing a court of the General Court of Justice other than a
- 8 courtroom itself unless the magistrate is presiding in that courtroom, if the
- 9 magistrate (i) is in the building to discharge the magistrate's official duties,
- 10 (ii) has a concealed handgun permit issued in accordance with Article 54B of
- 11 this Chapter or considered valid under G.S. 14-415.24, (iii) has successfully
- 12 completed a one-time weapons retention training substantially similar to that
- 13 provided to certified law enforcement officers in North Carolina, and (iv)
- 14 secures the weapon in a locked compartment when the weapon is not on the
- 15 magistrate's person.
- 16 (5) State-owned rest areas, rest stops along the highways, and State-owned
- 17 hunting and fishing reservations.
- 18 (6) A person with a permit issued in accordance with Article 54B of this
- 19 Chapter, with a permit considered valid under G.S. 14-415.24, or who is
- 20 exempt from obtaining a permit pursuant to G.S. 14-415.25, who has a
- 21 firearm in a closed compartment or container within the person's locked
- 22 vehicle or in a locked container securely affixed to the person's vehicle. A
- 23 person may unlock the vehicle to enter or exit the vehicle provided the
- 24 firearm remains in the closed compartment at all times and the vehicle is
- 25 locked immediately following the entrance or exit.
- 26 (c) Any person violating the provisions of this section shall be guilty of a Class 1
- 27 misdemeanor."
- 28 **SECTION 4.** This act becomes effective December 1, 2015.