

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 702
Apr 14, 2015
HOUSE PRINCIPAL CLERK

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HOUSE DRH30267-LHF-112A (03/04)

Short Title: Preemption Affirmation Act.

(Public)

Sponsors: Representative Speciale.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENSURE STATEWIDE UNIFORMITY OF FIREARMS LAWS, TO INCREASE THE PERIOD OF TIME THAT A CONCEALED HANDGUN PERMIT IS VALID FROM FIVE YEARS TO TEN YEARS, AND TO ADJUST THE FEE TO OBTAIN A NEW PERMIT OR TO RENEW A PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-409.40 reads as rewritten:

"§ 14-409.40. Statewide uniformity of local regulation.

(a) It is declared by the General Assembly that the regulation of firearms is properly an issue of general, statewide concern, and that the entire field of regulation of firearms is preempted from regulation by local governments except as provided by this section.

(a1) The General Assembly further declares that the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or ammunition to the public is not an unreasonably dangerous activity and does not constitute a nuisance per se and furthermore, that it is the unlawful use of firearms and ammunition, rather than their lawful design, marketing, manufacture, distribution, sale, or transfer that is the proximate cause of injuries arising from their unlawful use. This subsection applies only to causes of action brought under subsection (g) of this section.

(b) Unless otherwise permitted by statute, no county or municipality, by ordinance, resolution, or other enactment, shall regulate in any manner the possession, ownership, storage, transfer, sale, purchase, licensing, taxation, manufacture, transportation, or registration of firearms, firearms ammunition, components of firearms, dealers in firearms, or dealers in handgun components or parts.

(c) Notwithstanding subsection (b) of this section, a county or municipality, by zoning or other ordinance, may regulate or prohibit the sale of firearms at a location only if there is a lawful, general, similar regulation or prohibition of commercial activities at that location. Nothing in this subsection shall restrict the right of a county or municipality to adopt a general zoning plan that prohibits any commercial activity within a fixed distance of a school or other educational institution except with a special use permit issued for a commercial activity found not to pose a danger to the health, safety, or general welfare of persons attending the school or educational institution within the fixed distance.

(d) No county or municipality, by zoning or other ordinance, shall regulate in any manner firearms shows with regulations more stringent than those applying to shows of other types of items.



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(e) A county or municipality may regulate the transport, carrying, or possession of firearms by employees of the local unit of government in the course of their employment with that local unit of government.

(f) Nothing contained in this section prohibits municipalities or counties from application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the possession of firearms in public-owned buildings, on the grounds or parking areas of those buildings, or in public parks or recreation areas, except nothing in this subsection shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is on these grounds or areas. Nothing contained in this section prohibits municipalities or counties from exercising powers provided by law in states of emergency declared under Article 1A of Chapter 166A of the General Statutes.

(g) The authority to bring suit and the right to recover against any firearms or ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or on behalf of any governmental unit, created by or pursuant to an act of the General Assembly or the Constitution, or any department, agency, or authority thereof, for damages, abatement, injunctive relief, or any other remedy resulting from or relating to the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or ammunition to the public is reserved exclusively to the State. Any action brought by the State pursuant to this section shall be brought by the Attorney General on behalf of the State. This section shall not prohibit a political subdivision or local governmental unit from bringing an action against a firearms or ammunition marketer, manufacturer, distributor, dealer, seller, or trade association for breach of contract or warranty for defect of materials or workmanship as to firearms or ammunition purchased by the political subdivision or local governmental unit.

(h) A person adversely affected by any ordinance, rule, or regulation promulgated or caused to be enforced by any county or municipality in violation of this section may bring an action for declaratory and injunctive relief and for actual damages arising from the violation. The court shall award the prevailing plaintiff in an action brought under this subsection reasonable attorneys' fees and court costs as authorized by law."

SECTION 2. G.S. 14-415.11(b) reads as rewritten:

"(b) The sheriff shall issue a permit to carry a concealed handgun to a person who qualifies for a permit under G.S. 14-415.12. The permit shall be valid throughout the State for a period of ~~five~~10 years from the date of issuance."

SECTION 3. G.S. 14-415.19 reads as rewritten:

"§ 14-415.19. 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:

Application fee	\$80.00 <u>\$160.00</u>
Renewal fee	\$75.00 <u>\$150.00</u>
Duplicate permit fee	\$15.00

The county finance officer shall remit ~~forty five dollars (\$45.00)~~ninety dollars (\$90.00) of each new application fee and ~~forty dollars (\$40.00)~~eighty dollars (\$80.00) 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)~~seventy dollars (\$70.00) of each application or renewal fee shall be

1 used by the sheriff to pay the costs of administering this Article and for other law enforcement
2 purposes. The county shall expend the restricted funds for these purposes only.

3 (a1) The permit fees for a retired sworn law enforcement officer who provides the
4 information required by subdivisions (1) and (2) of this subsection to the sheriff, in addition to
5 any other information required under this Article, are as follows:

6		
7	Application fee	\$45.00 <u>\$90.00</u>
8	Renewal fee	\$40.00 <u>\$80.00</u>
9		

10 (1) A copy of the officer's letter of retirement from either the North Carolina
11 Teachers' and State Employees' Retirement System or the North Carolina
12 Local Governmental Employees' Retirement System.

13 (2) Written documentation from the head of the agency where the person was
14 previously employed indicating that the person was neither involuntarily
15 terminated nor under administrative or criminal investigation within six
16 months of retirement.

17 The county finance officer shall remit the proceeds of the fees assessed under this
18 subsection to the North Carolina Department of Public Safety to cover the cost of performing
19 the State and federal criminal record checks performed in connection with processing
20 applications and for the implementation of the provisions of this Article.

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

24 **SECTION 4.** This act becomes effective December 1, 2015. Section 1 of this act
25 applies to violations occurring on or after that date. Section 2 of this act applies to permits
26 issued or renewed on or after that date. Section 3 of this act applies to fees collected for permits
27 issued or renewed on or after that date.