

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 562
PROPOSED COMMITTEE SUBSTITUTE H562-PCS20341-SA-54

Short Title: Amend Firearm Laws.

(Public)

Sponsors:

Referred to:

April 6, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS FIREARMS LAWS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1.(a) G.S. 14-269(b) reads as rewritten:

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

6 ...

7 (4a) Any person who is a district attorney, an assistant district attorney, or an
8 investigator employed by the office of a district attorney and who has a
9 concealed handgun permit issued in accordance with Article 54B of this
10 Chapter or considered valid under G.S. 14-415.24; provided that the person
11 shall not carry a concealed weapon at any time ~~while in a courtroom or while~~
12 consuming alcohol or an unlawful controlled substance or while alcohol or
13 an unlawful controlled substance remains in the person's body. The district
14 attorney, assistant district attorney, or investigator shall secure the weapon in
15 a locked compartment when the weapon is not on the person of the district
16 attorney, assistant district attorney, or investigator;

17 ...

18 (8) A person employed by the Department of Public Safety who has been
19 designated in writing by the Secretary of the Department, who has a
20 concealed handgun permit issued in accordance with Article 54B of this
21 Chapter or considered valid under G.S. 14-415.24, and has in the person's
22 possession written proof of the designation by the Secretary of the
23 Department, provided that the person shall not carry a concealed weapon at
24 any time while consuming alcohol or an unlawful controlled substance or
25 while alcohol or an unlawful controlled substance remains in the person's
26 body;

27 (9) Any person who is an administrative law judge described in Article 60 of
28 Chapter 7A of the General Statutes and who has a concealed handgun permit
29 issued in accordance with Article 54B of this Chapter or considered valid
30 under G.S. 14-415.24, provided that the person shall not carry a concealed
31 weapon at any time while consuming alcohol or an unlawful controlled
32 substance or while alcohol or an unlawful controlled substance remains in
33 the person's body."

34 SECTION 1.(b) G.S. 14-415.27 reads as rewritten:

35 "§ 14-415.27. Expanded permit scope for certain persons.



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1 Notwithstanding G.S. 14-415.11(c), any of the following persons who has a concealed
2 handgun permit issued pursuant to this Article or that is considered valid under G.S. 14-415.24
3 is not subject to the area prohibitions set out in G.S. 14-415.11(c) and may carry a concealed
4 handgun in the areas listed in G.S. 14-415.11(c) unless otherwise prohibited by federal law:

- 5 (1) A district attorney.
- 6 (2) An assistant district attorney.
- 7 (3) An investigator employed by the office of a district attorney.
- 8 (4) A North Carolina district or superior court judge.
- 9 (5) A magistrate.
- 10 (6) A person who is elected and serving as a clerk of court.
- 11 (7) A person who is elected and serving as a register of deeds.
- 12 (8) A person employed by the Department of Public Safety who has been
13 designated in writing by the Secretary of the Department and who has in the
14 person's possession written proof of the designation.
- 15 (9) A North Carolina administrative law judge."

16 **SECTION 2.** G.S. 14-269.2(k) reads as rewritten:

17 "(k) The provisions of this section shall not apply to a person who has a concealed
18 handgun permit that is valid under Article 54B of this Chapter, or who is exempt from
19 obtaining a permit pursuant to that Article, if any of the following conditions are met:

- 20 (1) ~~who~~ The person has a handgun in a closed compartment or container within
21 the person's locked vehicle or in a locked container securely affixed to the
22 person's vehicle. A person may unlock vehicle and only unlocks the vehicle
23 to enter or exit the vehicle provided while the firearm remains in the closed
24 compartment at all times and immediately locks the vehicle is locked
25 immediately following the entrance or exit.
- 26 (2) The person has a handgun concealed on the person and the person remains in
27 the locked vehicle and only unlocks the vehicle to allow the entrance or exit
28 of another person.
- 29 (3) The person is within a locked vehicle and removes the handgun from
30 concealment only for the amount of time reasonably necessary to do either
31 of the following:
 - 32 a. Move the handgun from concealment on the person to a closed
33 compartment or container within the vehicle.
 - 34 b. Move the handgun from within a closed compartment or container
35 within the vehicle to concealment on the person."

36 **SECTION 3.** G.S. 14-269.2 is amended by adding a new subsection to read:

37 "(l) It is an affirmative defense to a prosecution under subsection (b) or (f) of this
38 section that the person was authorized to have a concealed handgun in a locked vehicle
39 pursuant to subsection (k) of this section and removed the handgun from the vehicle only in
40 response to a threatening situation in which deadly force was justified pursuant to
41 G.S. 14-51.3."

42 **SECTION 4.** Article 45 of Chapter 106 of the General Statutes is amended by
43 adding a new section to read:

44 **§ 106-503.2. Regulation of firearms at State Fair.**

45 (a) Except as otherwise provided in this section, the Commissioner of Agriculture is
46 authorized to prohibit the carrying of firearms in any manner on the State Fairgrounds during
47 the period of time each year that the State Fair is conducted. Any prohibition under this section
48 shall be posted conspicuously in compliance with G.S. 14-415.28.

49 (b) Notwithstanding subsection (a) of this section, any prohibition under this section
50 shall not apply to the following persons:

- 51 (1) Any person exempted by G.S. 14-269(b)(1), (2), (3), (4), or (5).

1 (2) Any person who has a concealed handgun permit that is valid under Article
2 54B of this Chapter, or who is exempt from obtaining a permit pursuant to
3 that Article, who has a handgun in a closed compartment or container within
4 the person's locked vehicle or in a locked container securely affixed to the
5 person's vehicle. A person may unlock the vehicle to enter or exit the vehicle
6 provided the firearm remains in the closed compartment at all times and the
7 vehicle is locked immediately following the entrance or exit."

8 **SECTION 5.(a)** G.S. 14-409.46 reads as rewritten:

9 **"§ 14-409.46. Sport shooting range protection.**

10 (a) Notwithstanding any other provision of law, a person who owns, operates, or uses a
11 sport shooting range in this State shall not be subject to civil liability or criminal prosecution in
12 any matter relating to noise or noise pollution resulting from the operation or use of the range if
13 the range ~~was in existence at least three years prior to the effective date of this Article and the~~
14 ~~range was~~ is in compliance with any noise control laws or ordinances that applied to the range
15 and its operation at the time the range began operation.

16 (b) A person who owns, operates, or uses a sport shooting range is not subject to an
17 action for nuisance on the basis of noise or noise pollution, and a State court shall not enjoin
18 the use or operation of a range on the basis of noise or noise pollution, if the range ~~was in~~
19 ~~existence at least three years prior to the effective date of this Article and the range was~~ is in
20 compliance with any noise control laws or ordinances that applied to the range and its operation
21 at the time the range began operation.

22 (c) Rules adopted by any State department or agency for limiting levels of noise in
23 terms of decibel level that may occur in the outdoor atmosphere shall not apply to a sport
24 shooting range ~~exempted from liability under this Article that was in operation prior to the~~
25 ~~adoption of the rule.~~

26 (d) A person who acquires title to real property adversely affected by the use of
27 property with a permanently located and improved sport shooting range constructed and
28 initially operated prior to the time the person acquires title shall not maintain a nuisance action
29 on the basis of noise or noise pollution against the person who owns the range to restrain,
30 enjoin, or impede the use of the range. If there is a substantial change in use of the range after
31 the person acquires title, the person may maintain a nuisance action if the action is brought
32 within one year of the date of a substantial change in use. This section does not prohibit actions
33 for negligence or recklessness in the operation of the range or by a person using the range.

34 (e) A sport shooting range that is operated and is not in violation of existing law at the
35 time of the enactment of an ordinance ~~and was in existence at least three years prior to the~~
36 ~~effective date of this Article,~~ shall be permitted to continue in operation even if the operation of
37 the sport shooting range at a later date does not conform to the new ordinance or an amendment
38 to an existing ordinance, provided there has been no substantial change in use."

39 **SECTION 5.(b)** G.S. 14-409.47 reads as rewritten:

40 **"§ 14-409.47. Application of Article.**

41 Except as otherwise provided in this Article, this Article does not prohibit a local
42 government from regulating the location and construction of a sport shooting range after ~~the~~
43 ~~effective date of this Article, September 1, 1997."~~

44 **SECTION 6.** G.S. 14-415.4(a) reads as rewritten:

45 "(a) Definitions. – The following definitions apply in this section:

46 (1) Firearms rights. – The legal right in this State of a person to purchase, own,
47 possess, or have in the person's custody, care, or control any firearm or any
48 weapon of mass death and destruction as those terms are defined in
49 G.S. 14-415.1 and G.S. 14-288.8(c). ~~The term does not include any weapon~~
50 ~~defined in G.S. 14-409(a).~~

- 1 (2) Nonviolent felony. – The term nonviolent felony does not include any felony
- 2 that is a Class A, Class B1, or Class B2 felony. Also, the term nonviolent
- 3 felony does not include any Class C through Class I felony that is one of the
- 4 following:
- 5 a. An offense that includes assault as an essential element of the
- 6 offense.
- 7 b. An offense that includes the possession or use of a firearm or other
- 8 deadly weapon as an essential or nonessential element of the offense,
- 9 or the offender was in possession of a firearm or other deadly
- 10 weapon at the time of the commission of the offense.
- 11 c. An offense for which the offender was armed with or used a firearm
- 12 or other deadly weapon.
- 13 d. An offense for which the offender must register under Article 27A of
- 14 Chapter 14 of the General Statutes."

15 **SECTION 7.** G.S. 14-415.12(b) reads as rewritten:

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

- 17 (1) Is ineligible to own, possess, or receive a firearm under the provisions of
- 18 State or federal law.
- 19 (2) Is under indictment or against whom a finding of probable cause exists for a
- 20 felony.
- 21 (3) Has been adjudicated guilty in any court of a felony, unless: (i) the felony is
- 22 an offense that pertains to antitrust violations, unfair trade practices, or
- 23 restraints of trade, or (ii) the person's firearms rights have been restored
- 24 pursuant to G.S. 14-415.4.
- 25 (4) Is a fugitive from justice.
- 26 (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant,
- 27 stimulant, or narcotic drug, or any other controlled substance as defined in
- 28 21 U.S.C. § 802.
- 29 (6) Is currently, or has been previously adjudicated by a court or
- 30 administratively determined by a governmental agency whose decisions are
- 31 subject to judicial review to be, lacking mental capacity or mentally ill.
- 32 Receipt of previous consultative services or outpatient treatment alone shall
- 33 not disqualify an applicant under this subdivision.
- 34 (7) Is or has been discharged from the Armed Forces of the United States under
- 35 conditions other than honorable.
- 36 (8) Is or has been adjudicated guilty of or received a prayer for judgment
- 37 continued or suspended sentence for one or more crimes of violence
- 38 constituting a misdemeanor, including but not limited to, a violation of a
- 39 misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a
- 40 violation of a misdemeanor under G.S. ~~14-225.2,~~14-226.1, 14-258.1,
- 41 14-269.2, 14-269.3, 14-269.4, 14-269.6, ~~14-276.1,~~14-277, 14-277.1,
- 42 14-277.2, 14-277.3A, ~~14-281.1,~~ ~~14-283,~~14-283 except for a violation
- 43 involving fireworks exempted under G.S. 14-414, 14-288.2, ~~14-288.4(a)(1)~~
- 44 ~~or (2),~~14-288.4(a)(1), 14-288.6, 14-288.9, former 14-288.12, former
- 45 14-288.13, former 14-288.14, ~~14-288.20A,~~14-318.2, 14-415.21(b),
- 46 14-415.26(d), or former ~~G.S. 14-277.3~~G.S. 14-277.3 within three years prior
- 47 to the date on which the application is submitted.
- 48 (8a) Is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g) as a
- 49 result of a conviction of a misdemeanor crime of domestic violence.

- 1 (9) Has had entry of a prayer for judgment continued for a criminal offense
2 which would disqualify the person from obtaining a concealed handgun
3 permit.
4 (10) Is free on bond or personal recognizance pending trial, appeal, or sentencing
5 for a crime which would disqualify him from obtaining a concealed handgun
6 permit.
7 (11) Has been convicted of an impaired driving offense under G.S. 20-138.1,
8 20-138.2, or 20-138.3 within three years prior to the date on which the
9 application is submitted."

10 **SECTION 8.(a)** Article 54B of Chapter 14 of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 14-415.28. Sign requirements.**

13 (a) Notwithstanding any other provision of this Article, any requirement of or
14 allowance for the posting of signs prohibiting the carrying of a concealed handgun upon any
15 premises shall only be satisfied by a sign meeting the requirements of this section.

16 (b) All signs must be posted at each entrance into a building where a person with a
17 concealed handgun permit is prohibited from carrying a concealed handgun and must meet all
18 of the following criteria:

- 19 (1) Be clearly visible from outside the building.
20 (2) Be eight inches wide by 12 inches tall in size.
21 (3) Contain the words "NO CONCEALED HANDGUNS ALLOWED" in black
22 one-inch tall uppercase type at the bottom of the sign and centered between
23 the lateral edges of the sign.
24 (4) Contain a black silhouette of a handgun inside a circle seven inches in
25 diameter with a diagonal line that runs from the lower left to the upper right
26 at a 45-degree angle from the horizontal.
27 (5) Be placed not less than 40 inches and not more than 60 inches from the
28 bottom of the building's entrance door.

29 (c) If the premises where a person with a concealed handgun permit is prohibited from
30 carrying a concealed handgun does not have doors, then the signs required by this section must
31 meet all of the following criteria:

- 32 (1) Be 36 inches wide by 48 inches tall in size.
33 (2) Contain the words "NO CONCEALED HANDGUNS ALLOWED" in black
34 three-inch tall uppercase type at the bottom of the sign and centered between
35 the lateral edges of the sign.
36 (3) Contain a black silhouette of a handgun inside a circle 34 inches in diameter
37 with a two-inch wide border and a diagonal line that is two inches wide and
38 runs from the lower left to the upper right at a 45-degree angle from the
39 horizontal.
40 (4) Be placed not less than 40 inches and not more than 96 inches above the
41 ground.
42 (5) Be posted in sufficient quantities to be clearly visible from any point of entry
43 onto the premises."

44 **SECTION 8.(b)** G.S. 14-415.11(c) reads as rewritten:

45 "(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry
46 a concealed handgun in any of the following:

- 47 (1) Areas prohibited by G.S. 14-269.2, 14-269.3, and 14-277.2.
48 (2) Areas prohibited by G.S. 14-269.4, except as allowed under
49 G.S. 14-269.4(6).
50 (3) In an area prohibited by rule adopted under G.S. 120-32.1.
51 (4) In any area prohibited by 18 U.S.C. § 922 or any other federal law.

- 1 (5) In a law enforcement or correctional facility.
2 (6) In a building housing only State or federal offices.
3 (7) In an office of the State or federal government that is not located in a
4 building exclusively occupied by the State or federal government.
5 (8) On any private premises where notice that carrying a concealed handgun is
6 prohibited by the posting of a ~~conspicuous notice or statement~~ sign meeting
7 the criteria of G.S. 14-415.28 by the person in legal possession or control of
8 the premises."

9 **SECTION 8.(c)** G.S. 14-269.3(b) reads as rewritten:

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

11 ...

- 12 (5) A person carrying a handgun if the person has a valid concealed handgun
13 permit issued in accordance with Article 54B of this Chapter, has a
14 concealed handgun permit considered valid under G.S. 14-415.24, or is
15 exempt from obtaining a permit pursuant to G.S. 14-415.25. This
16 subdivision shall not be construed to permit a person to carry a handgun on
17 any premises where the person in legal possession or control of the premises
18 has posted a conspicuous notice prohibiting the carrying of a concealed
19 handgun on the premises in accordance with
20 G.S. 14-415.11(e); G.S. 14-415.28."

21 **SECTION 8.(d)** G.S. 14-277.2(d) reads as rewritten:

22 "(d) The provisions of this section shall not apply to concealed carry of a handgun at a
23 parade or funeral procession by a person with a valid permit issued in accordance with Article
24 54B of this Chapter, with a permit considered valid under G.S. 14-415.24, or who is exempt
25 from obtaining a permit pursuant to G.S. 14-415.25. This subsection shall not be construed to
26 permit a person to carry a concealed handgun on any premises where the person in legal
27 possession or control of the premises has posted a conspicuous notice prohibiting the carrying
28 of a concealed handgun on the premises in accordance with ~~G.S. 14-415.11(e);~~ G.S. 14-415.28."

29 **SECTION 8.(e)** G.S. 14-415.23(a) reads as rewritten:

30 "(a) It is the intent of the General Assembly to prescribe a uniform system for the
31 regulation of legally carrying a concealed handgun. To insure uniformity, no political
32 subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal
33 corporation, town, township, village, nor any department or agency thereof, may enact
34 ordinances, rules, or regulations concerning legally carrying a concealed handgun. A unit of
35 local government may adopt an ordinance to permit the posting of a prohibition against
36 carrying a concealed handgun, in accordance with ~~G.S. 14-415.11(e);~~ G.S. 14-415.28, on local
37 government buildings and their appurtenant premises."

38 **SECTION 9.** G.S. 113-291.1(c) reads as rewritten:

39 "(c) It is a Class 1 misdemeanor for any person taking wildlife to have in his possession
40 any:

- 41 (1) Repealed by Session Laws 2013-369, s. 23, effective October 1, 2013.
42 (2) Weapon of mass death and destruction as defined in G.S. 14-288.8, other
43 than a suppressor or other device designed to muffle or minimize the report
44 of a firearm or short-barreled rifle that is lawfully possessed by a person in
45 compliance with 26 U.S.C. Chapter 53 §§ 5801-5871.

46 The Wildlife Resources Commission may prohibit individuals training dogs or taking
47 particular species from carrying axes, saws, tree-climbing equipment, and other implements
48 that may facilitate the unlawful taking of wildlife, except tree-climbing equipment may be
49 carried and used by persons lawfully taking raccoons and opossums during open season."

50 **SECTION 10.** G.S. 14-415.21 reads as rewritten:

51 "**§ 14-415.21. Violations of this Article punishable as an infraction.**

1 (a) A person who has been issued a valid permit who is found to be carrying a
2 concealed handgun without the permit in the person's possession or who fails to disclose to any
3 law enforcement officer that the person holds a valid permit and is carrying a concealed
4 handgun, as required by G.S. 14-415.11, or who is found to be carrying a concealed handgun in
5 violation of subdivision (c)(8) of G.S. 14-415.11, shall be guilty of an infraction and shall be
6 punished in accordance with G.S. 14-3.1. In lieu of paying a fine the person may surrender the
7 permit.

8 (a1) A person who has been issued a valid permit who is found to be carrying a
9 concealed handgun in violation of ~~subdivision (c)(8) or~~ subsection (c2) of G.S. 14-415.11 shall
10 be guilty of a Class 1 misdemeanor.

11 (b) A person who violates the provisions of this Article other than as set forth in
12 subsection (a) or (a1) of this section is guilty of a Class 2 misdemeanor."

13 **SECTION 11.(a)** G.S. 122C-54(d1) is repealed.

14 **SECTION 11.(b)** G.S. 122C-54.1 is recodified as G.S. 14-409.42.

15 **SECTION 11.(c)** G.S. 14-404(c1) is repealed.

16 **SECTION 11.(d)** Article 53B of Chapter 14 of the General Statutes is amended by
17 adding a new section to read:

18 "**§ 14-409.43. Reporting of certain disqualifiers to the National Instant Criminal**
19 **Background Check System (NICS).**

20 (a) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving
21 notice of any of the following judicial determinations or findings, the clerk of superior court in
22 the county where the determination or finding was made shall work through the Administrative
23 Office of the Courts to cause a record of the determination or finding to be transmitted to the
24 National Instant Criminal Background Check System (NICS):

25 (1) A determination that an individual shall be involuntarily committed to a
26 facility for inpatient mental health treatment upon a finding that the
27 individual is mentally ill and a danger to self or others.

28 (2) A determination that an individual shall be involuntarily committed to a
29 facility for outpatient mental health treatment upon a finding that the
30 individual is mentally ill and, based on the individual's treatment history, in
31 need of treatment in order to prevent further disability or deterioration that
32 would predictably result in a danger to self or others.

33 (3) A determination that an individual shall be involuntarily committed to a
34 facility for substance abuse treatment upon a finding that the individual is a
35 substance abuser and a danger to self or others.

36 (4) A finding that an individual is not guilty by reason of insanity.

37 (5) A finding that an individual is mentally incompetent to proceed to criminal
38 trial.

39 (6) A finding that an individual lacks the capacity to manage the individual's
40 own affairs due to marked subnormal intelligence or mental illness,
41 incompetency, condition, or disease.

42 (7) A determination to grant a petition to an individual for the removal of
43 disabilities pursuant to G.S. 14-409.42 or any applicable federal law.

44 The 48-hour period for transmitting a record of a judicial determination or finding to the
45 NICS under subsection (a) of this section begins upon receipt by the clerk of a copy of the
46 judicial determination or finding. The Administrative Office of the Courts shall adopt rules to
47 require clerks of court to transmit information to the NICS in a uniform manner.

48 (b) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving
49 notice of the issuance of a felony warrant, indictment, criminal summons, or order for arrest,
50 the Administrative Office of the Courts shall transmit any unserved felony warrants,

1 indictments, criminal summons, or order for arrests to the NCIC (or National Instant Criminal
2 Background Check System (NICS)).

3 (c) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after service by
4 the sheriff of an order issued by a judge pursuant to Chapter 50B of the General Statutes and
5 pursuant to G.S. 50B-3(d) the sheriff shall cause a record of the order to be transmitted to the
6 National Instant Criminal Information System."

7 **SECTION 11.(e)** G.S. 122C-54(d2) reads as rewritten:

8 "(d2) The record of involuntary commitment for inpatient or outpatient mental health
9 treatment or for substance abuse treatment required by ~~subsection (d1) of this section to be~~
10 reported to the National Instant Criminal Background Check System (NICS) by G.S. 14-409.43
11 shall be accessible only by an entity having proper access to NICS the sheriff or the sheriff's
12 designee for the purposes of conducting background checks under G.S. 14-404 and shall
13 remain otherwise confidential as provided by this Article. ~~The Administrative Office of the~~
14 Courts shall adopt rules to require clerks of court to transmit information to the NICS as
15 required by subsection (d1) of this section in a uniform manner."

16 **SECTION 11.(f)** G.S. 14-404(a) reads as rewritten:

17 "(a) Upon application, and such application must be provided by the sheriff
18 electronically, the sheriff shall issue the permit to a resident of that county, unless the purpose
19 of the permit is for collecting, in which case a sheriff can issue a permit to a nonresident, when
20 the sheriff has done all of the following:

21"

22 **SECTION 11.(g)** G.S. 14-415.13(a) reads as rewritten:

23 "(a) A person shall apply to the sheriff of the county in which the person resides to
24 obtain a concealed handgun permit. The applicant shall submit to the sheriff all of the
25 following:

- 26 (1) An application, completed under oath, on a form provided by the
27 sheriff, sheriff, and such application form must be provided by the sheriff
28 electronically. The sheriff shall not request employment information,
29 character affidavits, additional background checks, photographs, or other
30 information unless specifically permitted by this Article.

31"

32 **SECTION 11.(h)** G.S. 15A-502 reads as rewritten:

33 **"§ 15A-502. Photographs and fingerprints.**

34 (a) A person charged with the commission of a felony or a misdemeanor may be
35 photographed and his fingerprints may be taken for law-enforcement records only when he has
36 been:

- 37 (1) Arrested or committed to a detention facility, or
38 (2) Committed to imprisonment upon conviction of a crime, or
39 (3) Convicted of a felony.

40 (a1) It shall be the duty of the arresting law-enforcement agency to cause a person
41 charged with the commission of a felony to be fingerprinted and to forward those fingerprints
42 to the State Bureau of Investigation.

43 (a2) It shall be the duty of the arresting law enforcement agency to cause a person
44 charged with the commission of any of the following misdemeanors to be fingerprinted, for the
45 purposes of reporting these offenses to the National Criminal Instant Background Check
46 System (NICS), and to forward those fingerprints to the State Bureau of Investigation:

- 47 (1) G.S. 14-134.3 (Domestic criminal trespass), G.S. 15A-1382.1 (Offense that
48 involved domestic violence), or G.S. 50B-4.1 (Violation of a valid protective
49 order).

- 50 (2) G.S. 20-138.1 (Impaired driving), G.S. 20-138.2 (Impaired driving in
51 commercial vehicle), G.S. 20-138.2A (Operating a commercial vehicle after

1 consuming alcohol), and G.S. 20-138.2B (Operating various school, child
2 care, EMS, firefighting, or law enforcement vehicles after consuming
3 alcohol).

4 (3) G.S. 90-95(d) (Possession of a controlled substance).

5 (a3) It shall be the duty of the arresting law enforcement agency to cause a person
6 charged with a crime to provide to the magistrate as much of the following information as
7 possible for the person arrested:

8 (1) Name including first, last, middle, maiden, and nickname or alias.

9 (2) Address including street, city, and state.

10 (3) Drivers license number and state of issuance.

11 (4) Date of birth.

12 (5) Gender.

13 (6) Race.

14 (7) Social Security number.

15 (8) Relationship to the alleged victim and whether it is a "personal relationship"
16 as defined by G.S. 50B-1(b).

17 (a4) It shall be the duty of the arresting law enforcement agency to cause a person who
18 has been charged with a misdemeanor offense of assault, stalking, or communicating a threat
19 and held under G.S. 15A-534.1 to be fingerprinted for the purposes of reporting these offenses
20 to the National Criminal Instant Background Check System (NICS) and to forward those
21 fingerprints to the State Bureau of Investigation.

22 (a5) It shall be the duty of the magistrate to enter into the court information system all
23 information provided by the arresting law enforcement agency on the person arrested.

24 (a2)(a6) If the person cannot be identified by a valid form of identification, it shall be the
25 duty of the arresting law-enforcement agency to cause a person charged with the commission
26 of:

- 27 (1) Any offense involving impaired driving, as defined in G.S. 20-4.01(24a), or
28 (2) Driving while license revoked if the revocation is for an Impaired Driving
29 License Revocation as defined in G.S. 20-28.2
30 to be fingerprinted and photographed.

31 (b) This section does not authorize the taking of photographs or fingerprints when the
32 offense charged is a Class 2 or 3 misdemeanor under Chapter 20 of the General Statutes,
33 "Motor Vehicles." Notwithstanding the prohibition in this subsection, a photograph may be
34 taken of a person who operates a motor vehicle on a street or highway if:

- 35 (1) The person is cited by a law enforcement officer for a motor vehicle moving
36 violation, and
37 (2) The person does not produce a valid drivers license upon the request of a law
38 enforcement officer, and
39 (3) The law enforcement officer has a reasonable suspicion concerning the true
40 identity of the person.

41 As used in this subsection, the phrase "motor vehicle moving violation" does not include the
42 offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor
43 does it include equipment violations specified in Part 9 of Article 3 of Chapter 20 of the
44 General Statutes.

45 (b1) Any photograph authorized by subsection (b) of this section and taken by a law
46 enforcement officer or agency:

- 47 (1) Shall only be taken of the operator of the motor vehicle, and only from the
48 neck up.
49 (2) Shall be taken at either the location where the citation is issued, or at the jail
50 if an arrest is made.

- 1 (3) Shall be retained by the law enforcement officer or agency until the final
2 disposition of the case.
- 3 (4) Shall not be used for any purpose other than to confirm the identity of the
4 alleged offender.
- 5 (5) Shall be destroyed by the law enforcement officer or agency upon a final
6 disposition of the charge.

7 (c) This section does not authorize the taking of photographs or fingerprints of a
8 juvenile alleged to be delinquent except under Article 21 of Chapter 7B of the General Statutes.

9 (d) This section does not prevent the taking of photographs, moving pictures, video or
10 sound recordings, fingerprints, or the like to show a condition of intoxication or for other
11 evidentiary use.

12 (e) Fingerprints or photographs taken pursuant to subsection (a), (a1), or (a2) of this
13 section may be forwarded to the State Bureau of Investigation, the Federal Bureau of
14 Investigation, or other law-enforcement agencies."

15 **SECTION 11.(i)** The Administrative Office of the Courts shall use funds available
16 from the Court Technology Fund to comply with subsection (d) of this section and to provide
17 all of the following historical records to the National Instant Criminal Background Check
18 System (NICS) by May 31, 2019:

- 19 (1) Involuntary commitments for inpatient and outpatient mental health and
20 substance abuse treatment from all counties.
- 21 (2) Findings of not guilty by reason of insanity or mentally incompetent to stand
22 trial from all counties.
- 23 (3) Findings that an individual lacks the capacity to manage the individual's own
24 affairs due to marked subnormal intelligence or mental illness,
25 incompetency, condition, or disease from all counties.
- 26 (4) Convictions for misdemeanor possession of controlled substances under
27 G.S. 90-95(d) from all counties from January 1, 2009.
- 28 (5) Convictions for all misdemeanors as identified in G.S. 14-134.3,
29 15A-1382.1, or 50B-4.1 from all counties.
- 30 (6) Convictions for all misdemeanors as identified in G.S. 20-138.1, 20-138.2,
31 20-138.2A, and 20-138.2B or convicted and sentenced under
32 G.S. 20-179(f3) for more than two years from all counties.
- 33 (7) Active and unserved felony warrants, indictments, criminal summons, and
34 orders for arrest from all counties.

35 **SECTION 11.(j)** G.S. 14-404(g) reads as rewritten:

36 "(g) An applicant shall not be ineligible to receive a permit under subdivision (c)(4) of
37 this section because of involuntary commitment to mental health services if the individual's
38 rights have been restored under ~~G.S. 122C-54.1~~G.S. 14-409.42."

39 **SECTION 11.(k)** G.S. 14-415.3(c) reads as rewritten:

40 "(c) The provisions of this section shall not apply to a person whose rights have been
41 restored pursuant to ~~G.S. 122C-54.1~~G.S. 14-409.42."

42 **SECTION 11.(l)** G.S. 14-415.12(c) reads as rewritten:

43 "(c) An applicant shall not be ineligible to receive a concealed carry permit under
44 subdivision (6) of subsection (b) of this section because of an adjudication of mental incapacity
45 or illness or an involuntary commitment to mental health services if the individual's rights have
46 been restored under ~~G.S. 122C-54.1~~G.S. 14-409.42."

47 **SECTION 11.(m)** G.S. 122C-54.1(a), recodified as G.S. 14-409.42(a) by
48 subsection (b) of this section, reads as rewritten:

49 "(a) Any individual over the age of 18 may petition for the removal of the disabilities
50 pursuant to 18 U.S.C. § 922(d)(4) and (g)(4), G.S. 14-415.3, and G.S. 14-415.12 arising out of
51 a determination or finding required to be transmitted to the National Instant Criminal

1 Background Check System by subdivisions (1) through (6) ~~of subsection (d1) of G.S. 122C-54.~~
2 of subsection (a) of G.S. 14-409.43. The individual may file the petition with a district court
3 judge upon the expiration of any current inpatient or outpatient commitment."

4 **SECTION 11.(n)** G.S. 15A-534(a) reads as rewritten:

5 "(a) In determining conditions of pretrial release a judicial official must impose at least
6 one of the following conditions:

- 7 (1) Release the defendant on his written promise to appear.
- 8 (2) Release the defendant upon his execution of an unsecured appearance bond
9 in an amount specified by the judicial official.
- 10 (3) Place the defendant in the custody of a designated person or organization
11 agreeing to supervise him.
- 12 (4) Require the execution of an appearance bond in a specified amount secured
13 by a cash deposit of the full amount of the bond, by a mortgage pursuant to
14 G.S. 58-74-5, or by at least one solvent surety.
- 15 (5) House arrest with electronic monitoring.

16 If condition (5) is imposed, the defendant must execute a secured appearance bond under
17 subdivision (4) of this subsection. If condition (3) is imposed, however, the defendant may
18 elect to execute an appearance bond under subdivision (4). If the defendant is required to
19 provide fingerprints pursuant to ~~G.S. 15A-502(a1) or (a2)~~, G.S. 15A-502(a1), (a2), (a4), or (a6),
20 or a DNA sample pursuant to G.S. 15A-266.3A or G.S. 15A-266.4, and (i) the fingerprints or
21 DNA sample have not yet been taken or (ii) the defendant has refused to provide the
22 fingerprints or DNA sample, the judicial official shall make the collection of the fingerprints or
23 DNA sample a condition of pretrial release. The judicial official may also place restrictions on
24 the travel, associations, conduct, or place of abode of the defendant as conditions of pretrial
25 release. The judicial official may include as a condition of pretrial release that the defendant
26 abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring
27 system, of a type approved by the Division of Adult Correction of the Department of Public
28 Safety, and that any violation of this condition be reported by the monitoring provider to the
29 district attorney."

30 **SECTION 11.(o)** Subsections (f) and (g) of this section become effective October
31 1, 2015, and apply to applications submitted on or after that date. Subsections (h) and (n) of this
32 section become effective on October 1, 2015. Subsections (a), (d), and (m) of this section
33 become effective on January 1, 2016. The remaining subsections of this section are effective
34 when they become law.

35 **SECTION 12.** G.S. 14-409.40 reads as rewritten:

36 "**§ 14-409.40. Statewide uniformity of local regulation.**

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

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

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

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

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

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

15 (f) Nothing contained in this section prohibits municipalities or counties from
16 application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-269.3,
17 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the possession of firearms in
18 public-owned buildings, on the grounds or parking areas of those buildings, or in public parks
19 or recreation areas, except nothing in this subsection shall prohibit a person from storing a
20 firearm within a motor vehicle while the vehicle is on these grounds or areas. Nothing
21 contained in this section prohibits municipalities or counties from exercising powers provided
22 by law in states of emergency declared under Article 1A of Chapter 166A of the General
23 Statutes.

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

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

41 **SECTION 13.** Chapter 90 of the General Statutes is amended by adding a new
42 Article to read:

43 "Article 1L.

44 "Preserving Firearms Privacy for Patients.

45 "**§ 90-21.75. Findings and intent.**

46 (a) Findings. – The General Assembly makes all of the following findings:

47 (1) That individuals have a right under the United States Constitution and the
48 North Carolina Constitution to keep and bear arms, which arms include
49 firearms and their ammunition.

50 (2) That an individual's decision to exercise this right is a private matter.

- 1 (3) That lawfully possessed, stored, and used firearms and ammunition are not a
2 threat to the public health.
- 3 (4) That health care providers do not have any special expertise in the safe
4 storage or use of firearms and ammunition merely by virtue of their status as
5 health care providers. To the extent that health care providers have general
6 advice to impart concerning firearms and ammunition, they may do so
7 without knowing whether any particular patient actually possesses or uses
8 these items.
- 9 (5) That health care providers do not need to know whether a patient lawfully
10 possesses or uses firearms and ammunition unless the patient (i) specifically
11 exhibits symptoms of illness or injury that the health care provider could
12 reasonably attribute to the possession or use of firearms and ammunition or
13 (ii) has expressed a desire to harm self or others.
- 14 (6) That a patient should not be compelled to participate in a health care
15 provider's gathering of statistical or demographic information about the use,
16 storage, and possession of firearms and ammunition for research or other
17 purposes not directly related to the patient's own health.

18 (b) Intent. – It is the intent of the General Assembly to ensure that (i) every patient may
19 obtain health care free from discrimination based on knowledge of, or unwarranted inquiry
20 into, constitutionally protected conduct involving firearms and ammunition and (ii) health care
21 providers may still obtain information about patient activities with respect to firearms and
22 ammunition when directly relevant to the patient's own health care.

23 **"§ 90-21.76. Definitions.**

24 The following definitions apply in this section:

- 25 (1) Health care provider. – Without limitation, any person who, pursuant to the
26 provisions of Chapter 90 of the General Statutes, is licensed or is otherwise
27 registered or certified to engage in the practice of or otherwise performs
28 duties associated with any of the following: medicine, surgery, dentistry,
29 pharmacy, optometry, midwifery, osteopathy, podiatry, chiropractic,
30 radiology, nursing, physiotherapy, pathology, anesthesiology, anesthesia,
31 laboratory analysis, rendering assistance to a physician, dental hygiene,
32 psychiatry, psychology, or a hospital.
- 33 (2) Patient. – Means a person under the care of or who seeks professional
34 services from a health care provider.

35 **"§ 90-21.77. Prohibited questionnaires about firearms and ammunition; exception.**

36 A health care provider is prohibited from asking a patient or the patient's parent, guardian,
37 or custodian to complete a questionnaire or other written form about the patient's lawful
38 ownership, possession, handling, storage, maintenance of, or other conduct involving, firearms
39 and ammunition, unless the patient has been adjudicated incompetent due to mental illness.

40 **"§ 90-21.78. Prohibited disclosure of verbal inquiries about firearms and ammunition;**
41 **exception.**

42 Confidentiality of Verbal Inquiries About Firearms and Ammunition. – A health care
43 provider is prohibited from disclosing to any government official or agency the response of a
44 patient, or the patient's parent, guardian, or custodian, to verbal inquiries about the patient's
45 lawful ownership, possession, handling, storage, maintenance of, or other conduct involving
46 firearms and ammunition, unless the patient has been adjudicated incompetent due to mental
47 illness.

48 **"§ 90-21.79. Fines.**

49 The health care provider's licensing board may impose a fine on any health care provider
50 that violates any provision of this Article. The fine shall not exceed two hundred fifty dollars
51 (\$250.00) for nonwillful violations and shall not exceed five hundred dollars (\$500.00) for

1 willful violations. Each intentional and willful violation of this Article constitutes a separate
2 violation and is subject to a separate fine.

3 **"§ 90-21.80. Disciplinary action.**

4 Violation of this Article is a ground for disciplinary action against the health care provider
5 by the health care provider's licensing board or other regulatory authority."

6 **SECTION 14.** G.S. 14-415.15(a) reads as rewritten:

7 "(a) Except as permitted under subsection (b) of this section, within 45 days after receipt
8 of the items listed in G.S. 14-415.13 from an applicant, and receipt of the required records
9 concerning the mental health or capacity of the applicant, the sheriff shall either issue or deny
10 the permit. The sheriff shall issue or deny the permit within 90 calendar days from the date on
11 which the application was submitted regardless of the receipt of required records concerning
12 the mental health or capacity of the applicant. Such denial shall not be issued unless the
13 applicant is determined to be ineligible under G.S. 14-415.12.

14 The sheriff may conduct any investigation necessary to determine the qualification or
15 competency of the person applying for the permit, including record checks."

16 **SECTION 15.** G.S. 14-415.23 is amended by adding a new subsection to read:

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

22 **SECTION 16.** Sections 1, 2, 3, 9, and 10 of this act become effective July 1, 2015,
23 and apply to offenses committed on or after that date. Section 8 of this act becomes effective
24 July 1, 2015. Section 5 of this act becomes effective July 1, 2015, but shall not apply to
25 pending litigation. Section 6 of this act is effective when it becomes law and applies to
26 restorations granted before, on, or after that date. Section 7 of this act becomes effective July 1,
27 2015, and applies to permit applications submitted on or after that date. Sections 12, 13, and 15
28 of this act become effective December 1, 2015, and apply to violations occurring on or after
29 that date. Section 14 becomes effective October 1, 2015, and applies to applications submitted
30 on or after that date. Except as otherwise provided in this act, the remainder of this act is
31 effective when it becomes law. Prosecutions for offenses committed before the effective date of
32 this act are not abated or affected by this act, and the statutes that would be applicable but for
33 this act remain applicable to those prosecutions.